THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934
VOLUME 12 NUMBER 20

Washington, Wednesday, January 29, 1947

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

PART 220—CREDIT BY BROKERS, DEALERS AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

LOAN VALUES FOR AND SHORT SALES IN ACCOUNTS

This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to change loan values and margin requirements in order to carry out the purposes of the act in the light of present economic conditions.

1. Effective February 1, 1947, § 220.8 (11 F. R. 790) of this part (the Supplement) is hereby amended to read as follows:

§ 220.8 *Supplement*—(a) *Maximum loan value for general accounts.* The maximum loan value of a registered security (other than an exempted security) in a general account, subject to § 220.3, shall be 25 percent of its current market value.

(b) *Maximum loan value for specialists' accounts.* The maximum loan value of a registered security (other than an exempted security) in a specialists' account, subject to § 220.4 (g) shall be 50 percent of its current market value.

(c) *Margin required for short sales in general accounts.* The amount to be included in the adjusted debit balance of a general account, pursuant to § 220.3 (d) (3) as margin required for short sales of securities (other than exempted securities) shall be 75 percent of the current market value of each such security.

(d) *Margin required for short sales in specialists' accounts.* The amount to be included in the adjusted debit balance of a specialist's account, subject to § 220.4 (g) as margin required for short sales of securities (other than exempted securities) shall be 50 per cent of the current market value of each such security.

The notice and public procedure described in sections 4 (a) and 4 (b) of the Administrative Procedure Act, and the thirty day prior publication described in section 4 (c) of such act, are impracticable, unnecessary and contrary to the public interest in connection with this amendment for the reasons and good cause found as stated in § 262.2 (e) (11 F. R. 177 A-513) of this chapter of the Board's Rules of Procedure (Part 262)

(Sec. 3 (a) and (b), sec. 7 (a), (b) (c) and (d) sec. 8 (a) sec. 17 (b) and sec. 23 (a) 48 Stat. 881, 886, 888, 897, and 901, sec. 8, 49 Stat. 1379; 15 U. S. C. 78c-(a) and (b) 78g-(a) (b), (c) and (d), 78h-(a) 78q-(b), 78W-(a))

[SEAL] BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
S. R. CARPENTER,
Secretary.

[F. R. Doc. 47-831; Filed, Jan. 28, 1947; 8:49 a. m.]

PART 221—LOANS BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

LOAN VALUE OF STOCK

This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to change loan values in order to carry out the purposes of the act in the light of present economic conditions.

1. Effective February 1, 1947, § 221.4 (the Supplement) is hereby amended to read as follows:

§ 221.4 *Supplement*—(a) *Loan value of stock.* For the purpose of § 221.1, the maximum loan value of any stock, whether or not registered on a national securities exchange, shall be 25 per cent of its current market value, as determined by any reasonable method.

(b) *Loans to specialists.* Notwithstanding the foregoing, a stock, if registered on a national securities exchange, shall have a maximum loan value of 50 per cent of its current market value, as determined by any reasonable method, in the case of a loan to a member of a national securities exchange who is registered and acts as a specialist in securities on the exchange for the purpose of financing such member's transactions as a specialist in securities.

The notice and public procedure described in sections 4 (a) and 4 (b) of the Administrative Procedure Act, and the thirty day prior publication described in

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FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

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NOTICE

General notices of proposed rule making, published pursuant to section 4 (a) of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 238) which were carried under "Notices" prior to January 1, 1947 are now presented in a new section entitled "Proposed Rule Making" Relationship of these documents to material in the Code of Federal Regulations, formerly shown by cross reference under the appropriate Title, is now indicated by a bold-face citation in brackets at the head of each document.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

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CODIFICATION GUIDE—Con.

section 4 (c) of such act, are impracticable, unnecessary and contrary to the public interest in connection with this amendment for the reasons and good cause found as stated in § 262.2 (e) (11 F. R. 177A-513) of this chapter of the Board's Rules of Procedure (Part 262)

(Secs. 3 (a) and (b), 7, 17 (b) 48 Stat. 882, 886, 897, sec. 23 (a) as amended by sec. 8, 49 Stat. 1379; 15 U. S. C. 78c, 78g, 78q (b) 78u (a) 15 U. S. C., Sup. 78w (a))

[SEAL] BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
S. R. CARPENTER,
Secretary.

[F. R. Doc. 47-832; Filed, Jan. 28, 1947; 8:49 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers' Home Administration, Department of Agriculture

Subchapter G—Farm Ownership

PART 364—REGULATIONS

FARM OWNERSHIP LOAN LIMITS

For the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and loan limits for the counties identified below are determined to be as herein set forth; and the average values and loan limits listed for said counties in § 364.11 (b) Part 364 of Title 6 of the Code of Federal Regulations, as amended November 16, 1946 (11 F. R. 13611) are revised as follows:

§ 364.11 *General regulations.* * * *

(b) *Average values of farms and loan limits.* * * *

State	County	Average value	Loan limit
Georgia	Irwin	$7,500	$7,500
Kansas	Meade	20,000	12,000
Kansas	Miami	12,000	12,000
Minnesota	Crow Wing	5,000	5,000
Minnesota	Dakota	13,000	12,000
Nebraska	Knox	12,500	12,000
New York	Tompkins	8,000	8,000
North Carolina	Forsyth	8,500	8,500
Ohio	Warren	14,000	12,000

(Secs. 3 (a) 41 (f), 50 Stat. 522, as amended by secs. 3, 5, Pub. Law 731, 79th Cong., 7 U. S. C. 1003 (a), 1015 (f))

Issued this 23d day of January 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-835; Filed, Jan. 28, 1947; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

PART 927—MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

SUSPENSION OF CERTAIN PROVISIONS

Pursuant to notice published in the FEDERAL REGISTER (12 F. R. 129) and actual notice given to interested parties prior thereto, a public rule making proceeding was held on January 9 and 10, 1947, to consider the suspension of such of the class pricing provisions of Orders Nos. 27, 61, 45, 4, 34, and 47, as amended, regulating the handling of milk in the New York Metropolitan, Philadelphia, Pennsylvania, Washington, D. C., Greater Boston, Lowell-Lawrence, and Fall River, Massachusetts, marketing areas, respectively, as may be necessary to reflect current economic conditions affecting the market supply and demand for milk and its products in the aforesaid marketing areas.

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) hereinafter referred to as the "act," and of the order, as amended, regulating the handling of milk in the New York metropolitan marketing area, hereinafter referred to as the "order," and after having considered all relevant matters presented at the aforesaid public rule making proceeding, it is hereby found and determined that:

1. The entire table contained in § 927.5 (a) (1) of the order, with the exception of the words "Dollars per cwt." and the figure or price "5.02," does not tend to effectuate the declared policy of the act with respect to milk received from producers or cooperative associations of producers during the month of February 1947; and

2. Any delay in the effective date of this suspension beyond February 1, 1947, will seriously jeopardize the orderly marketing of milk produced for the New York metropolitan milk marketing area, and therefore publication of this suspension not less than 30 days prior to its effective date (see sec. 4 (c) Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest.

It is therefore ordered, That the entire table contained in § 927.5 (a) (1) of the order, with the exception of the words "Dollars per cwt." and the figure or price "5.02," be and it hereby is suspended with respect to milk received from producers or cooperative associations of producers during the month of February 1947.

(48 Stat. 51, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 23d day of January 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-834; Filed, Jan. 23, 1947; 8:50 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration (Old-Age and Survivors Insurance), Federal Security Agency

[Reg. 3, as Amended as of July 16, 1946]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE

INTRODUCTORY

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SUBPART D—OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

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SUBPART I—MISCELLANEOUS PROVISIONS

AUTHORITY: §§ 403.1 to 403.902, inclusive, issued under sec. 1102, 49 Stat. 647, sec. 205 (a), 53 Stat. 1400; 42 U. S. C. Sup. 1302.

INTRODUCTORY

§ 403.1 *Chronological description of pertinent statutes and regulations.* This section describes, chronologically, the statutes forming the basis for the old-age and survivors insurance system under Title II of the Social Security Act, as amended, and the regulations which have been issued thereunder.

(a) *Title II of the Social Security Act, and amendments effective prior to January 1, 1940, and regulations of the Social Security Administration thereunder*—(1) *Statutes.* Title II of the Social Security Act, approved August 14, 1935, (49 Stat. 622; 42 U. S. C., Sup. IV (1934 Ed.) 401–410a inclusive), provided in sections 202 to 210 for old-age benefits payable in lump sums beginning January 1, 1937, and for old-age benefits payable monthly, beginning January 1, 1942.

Section 15 of the Railroad Retirement Act of 1935, approved August 29, 1935 (49 Stat. 974) excludes service performed in the employ of a carrier, as defined in such act, from employment on the basis of which benefits were payable under such Title II of the Social Security Act. Similarly, section 17 of the Railroad Retirement Act of 1937, approved June 24, 1937 (50 Stat. 317; 45 U. S. C., Sup. IV (1934 Ed.) 228q) excludes service performed by an individual as an employee, as defined in such act, from employment under such Title II. The coverage provisions of section 1 of the Railroad Retirement Acts of 1935 and 1937, which affect the exclusion from employment under such Title II of the Social Security Act, were retroactively amended by Joint Resolution of June 11, 1940 (54 Stat. 264), and act of August 13, 1940 (54 Stat. 785) (which relates to coal-mining operations) Such coverage provisions of the Railroad Retirement Act of 1937 were also retroactively amended by section 13 of the act of April 8, 1942 (56 Stat. 209)

Section 902 (f) of the Social Security Act Amendments of 1939, approved August 10, 1939 (53 Stat. 1400) provides, in part, that no payment shall be made under such Title II with respect to services performed prior to January 1, 1940, in the employ of foreign governments and certain of their instrumentalities.

Section 902 (g) of the Social Security Act Amendments of 1939 (53 Stat. 1400) provides that no lump-sum payment shall be made under the provisions of section 204 of such Title II after August 10, 1939, except to the estate of an individual who dies prior to January 1, 1940.

Section 2 of the act of August 11, 1939 (53 Stat. 1420) provides, in part, that no payment shall be made under such Title II with respect to certain services rendered prior to January 1, 1940 in salvaging timber or clearing debris left by a hurricane.

(2) *Regulations.* Regulations relating to the benefits provided for under Title II of the Social Security Act, as approved August 14, 1935, and as amended or affected by the statutes set forth in subparagraph (1) of this paragraph, are set forth in Regulations No. 2 as amended from time to time and codified in Part 402, Title 20, Code of Federal Regulations, and supplements thereto.

(b) *Title II of the Social Security Act, as amended effective January 1, 1940, and regulations of the Social Security Administration thereunder*—(1) *Statutes.* The Social Security Act Amendments of 1939 (53 Stat. 1360), approved August 10, 1939, amend Title II of the Social Security Act, effective January 1, 1940, by making new provisions for monthly benefits and lump-sum death payments in substitution for the original provisions of sections 202 to 210, inclusive, of such title.

Section 907 of such amendments, as originally enacted added a provision requiring deductions to be made from ben-

efits and lump sums under Title II in case of nonpayment of, and failure to deduct, certain taxes with respect to an individual's employment in 1939 and subsequent to attainment of age 65. This section has been amended by section 1 (b) (3) of the act approved March 24, 1943 (57 Stat. 47) more fully referred to below.

(Section 902 (f) of the Social Security Act Amendments of 1939 and section 2 of the act of August 11, 1939 (53 Stat. 1420) (see paragraph (a) (1) of this section) prohibit any payment with respect to services described therein, under the substituted provisions of Title II as well as under the provisions in effect prior to January 1, 1940. For exclusions from employment corresponding to the provisions of sections 15 and 17 of the Railroad Retirement Acts of 1935 and 1937, respectively, see § 403.816.)

The act approved March 24, 1943 (57 Stat. 45) as amended by the act approved April 4, 1944 (58 Stat. 188) provides for certain rights and benefits to officers and members of crews of vessels as employees of the United States performing wartime service; adds to such Title II of the Social Security Act, as amended, a new section, 209 (o) relating to the coverage of such wartime service; and amends section 907 of the Social Security Act Amendments of 1939 (53 Stat. 1402) by requiring deductions to be made from benefits and lump sums under Title II in case of nonpayment of, and failure to deduct, certain taxes with respect to such wartime services.

The act approved December 29, 1945 (59 Stat. 669) adds paragraph (16) excepting from employment service performed in the employ of an international organization, to section 209 (b) and also prohibits any payment under Title II of the act with respect to any such service rendered prior to January 1, 1946.

(2) *Regulations.* The regulations in this part, as from time to time amended, are applicable to such Title II, as amended effective January 1, 1940, and as subsequently amended or affected by the statutes referred to under subparagraph (1) of this paragraph. (For the extent to which the regulations in this part supersede Part 402 of this chapter (Regulations No. 2) as amended, as indicated under paragraph (a) (2) of this section, see § 403.102.)

Subpart A—Scope of Regulations

§ 403.101 *Scope of the regulations in this part.* The regulations in this part relate to old-age and survivors insurance benefits and to lump-sum death payments under Title II of the act (as defined in section 801 (d))

The act provides the following types of payments for the wage earner and for persons having a designated relation to him: primary insurance benefits (to the wage earner) wife's insurance benefits, child's insurance benefits, widow's insurance benefits, widow's current insurance benefits, parent's insurance benefits, and lump-sum death payments. The lump-sum death payments to which these regulations relate (hereinafter referred to as lump sums) are to be distinguished from lump-sum payments to estates of individuals who died prior to January 1, 1940 (see § 403.102) The subject matter of the regulations in this part is divided into eight subparts in addition to this subpart, as follows:

Subpart B: "Insured status," which is a basic condition of entitlement to each kind of benefit enumerated above and to lump sums.

Subpart C: Basic computation of benefits and lump sums: "primary insurance benefit" and "average monthly wage."

Subpart D: Conditions of entitlement to the several types of benefits and to lump sums and the method of computing the amount thereof.

Subpart E: Reduction and increase of insurance benefits in cases where such benefits would otherwise exceed a stated maximum or would total less than a stated maximum or would total less than a stated minimum and deductions required from benefits and from lump sums.

Subpart F: Adjustment of overpayments and underpayments.

Subpart G: Evidence, procedure, and payment including the administrative procedures for the determination and certification of payment of benefits, the maintenance and revision of wage records, the hearing and review of matters affecting payments and the revision of wage records, and the representation of parties.

Subpart H: Definitions:
General definitions (§ 403.801)
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Wages (§§ 403.827–403.828)
Family relationships (§§ 403.829–403.834)

Subpart I: Miscellaneous provisions:
Penalties.
Disclosure of information, penalty.
Promulgation of regulations.

§ 403.102 *Extent to which Part 402 of this chapter (Regulations No. 2) remain operative.* The provisions of Part 402 of this chapter (Regulations No. 2) applicable to lump-sum payments to estates of individuals who died prior to January 1, 1940, continue in effect. The determination of whether services performed prior to January 1, 1940, constitute employment within the meaning of the regulations in this part is made in accordance with the applicable provisions of Part 402 of this chapter (Regulations No. 2) except as provided in § 403.802, and whether remuneration paid after December 31, 1936, and prior to January 1, 1940, constitutes wages within the meaning of the regulations in this part is determined in accordance with Part 402 of this chapter (Regulations No. 2) except as provided in § 403.827.

Sections 402.201 to 402.203, inclusive, (Chapter II of Regulations No. 2) relating to old-age benefits payable monthly, are superseded by the regulations in this part. (By virtue of the Social Security Act Amendments of 1939, effective January 1, 1940, Title II of the act no longer contains the provisions referred to in §§ 402.201 to 402.203, inclusive.

Subpart B—Insured Status

Section 209 (g) of the Act

The term "fully insured individual" means any individual with respect to whom it appears to the satisfaction of the Board that—

(1) He had not less than one quarter of coverage for each two of the quarters elapsing after 1936, or after the quarter in which he attained the age of twenty-one, whichever quarter is later, and up to but excluding the quarter in which he attained the age of sixty-five, or died, whichever first occurred, and in no case less than six quarters of coverage; or

(2) He had at least forty quarters of coverage.

As used in this subsection, and in subsection (h) of this section, the term "quarter" and the term "calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31; and the term "quarter of coverage" means a calendar quarter in which the individual has been paid not less than $50 in wages. When the number of quarters specified in paragraph (1) of this subsection is an odd number, for purposes of such paragraph such number shall be reduced by one. In any case where an individual has been paid in a calendar year $3,000 or more in wages, each quarter of such year following his first quarter of coverage shall be deemed a quarter of coverage, excepting any quarter in such year in which such individual dies or becomes entitled to a primary insurance benefit and any quarter succeeding such quarter in which he died or because so entitled.

§ 403.201 *Fully insured status*—(a) *Benefits based upon fully insured status.* All old-age and survivors insurance benefits and lump sums are conditioned upon a wage earner's insured status. This status is determined by his wage history. Unless a wage earner is a fully insured individual, he cannot become entitled to primary insurance benefits, his wife cannot become entitled to wife's insurance benefits, nor can his child during the wage earner's lifetime become entitled to child's insurance benefits, on the basis of his wages. Unless a deceased wage earner was a fully insured individual at death, neither his widow nor his surviving parent can become entitled to widow's or parent's insurance benefits, and unless the deceased wage earner was either a fully insured individual or currently insured individual (see § 403.202) at death, neither his widow nor surviving child can become entitled to widow's current insurance benefits or child's insurance benefits, nor can any person become entitled to a lump sum, on the basis of his wages. (See Subpart D as to conditions of entitlement.)

(b) *Quarter of coverage.* An individual has a fully insured status if he has acquired the requisite number of quarters of coverage. An individual acquires a quarter of coverage in any calendar quarter (as defined in section 209 (g) of the act) if:

(1) He is paid not less than $50 in wages in such calendar quarter, or

(2) He is paid $3,000 in wages in the calendar year in which such calendar quarter occurs, and

(i) Such calendar quarter occurs after a quarter of coverage which has been acquired in such year under subparagraph (1) of this paragraph, and

(ii) Such calendar quarter occurs prior to the quarter in which the individual dies or becomes entitled to a primary insurance benefit.

The instant an individual has been paid wages of $50 in a calendar quarter,

he acquires a quarter of coverage. The fact that an individual was under the age of 21 or over the age of 65 when he was paid wages or when he rendered services for such wages does not affect his acquiring a quarter of coverage by reason of the payment of such wages. (See, however, §§ 403.802 and 403.827 as to remuneration for services performed after attainment of age 65 and before January 1, 1939.)

Example 1: A is paid $25 in wages on June 15, for services performed from June 1 to June 15. A is paid no other wages in June. He is then paid $25 in wages on July 1 (in the subsequent calendar quarter) which was payable on that date for the pay period ending on June 30.

A does not have a quarter of coverage by virtue of the payment to him of $50 in wages for services performed in June, since $25 of that amount was paid to him in July, which is the first month in the subsequent calendar quarter. If the second $25 had been paid to him on June 30, A would have had a quarter of coverage under paragraph (b) (1) of this section.

Example 2: A attains age 65 on January 1, 1942. He is paid wages of $30 in each month beginning with January 1, 1940, and ending with February 1943. He dies in March 1943.

Under paragraph (b) (1) of this section A has 4 quarters of coverage in 1940, 4 in 1941, 4 in 1942, and 1 in 1943, giving a total of 13 quarters of coverage. (He has a quarter of coverage in 1943, even though he died before the quarter had elapsed.)

Example 3: (a) A is paid wages at the rate of $1,000 in each month beginning with January 1940. On March 31, 1940, his employment is terminated and his wages cease. He dies August 1.

A has 2 quarters of coverage in 1940. The first calendar quarter in that year is a quarter of coverage under paragraph (b) (1) of this section because A was paid more than $50 in wages therein. The second calendar quarter is a quarter of coverage under paragraph (b) (2) of this section because A was paid $3,000 in wages in that year. The third calendar quarter is not a quarter of coverage under paragraph (b) (1) of this section because A was paid no wages in that quarter, and is not a quarter of coverage under paragraph (b) (2) of this section because of A's death therein.

(b) A is paid wages of $400 per month in April, May, and June of 1940, and is paid wages of $600 per month in October, November, and December of that year, making a total of $3,000 paid him during the year. He was paid no wages in January, February, or March, or in July, August, or September.

A has 3 quarters of coverage in 1940. The first calendar quarter is not a quarter of coverage under paragraph (b) (1) of this section because A was not paid $50 in wages therein, and is not a quarter of coverage under paragraph (b) (2) of this section since it is not preceded by a quarter of coverage, even though A was paid $3,000 in the calendar year. The second calendar quarter is a quarter of coverage under paragraph (b) (1) of this section because A was paid more than $50 in wages therein. The third calendar quarter is a quarter of coverage under paragraph (b) (2) of this section because A was paid wages of $3,000 during the year, and the fourth calendar quarter is a quarter of coverage under both paragraphs (b) (1) and (b) (2) of this section because A was paid more than $50 in wages therein and was paid wages of $3,000 during the year.

Example 4: A is paid wages of $750 in each month beginning with January 1940 and ending with April of that year. On April 30, 1940, he dies.

A was paid $2,250 in the first quarter of 1940, and $750 in the second, or a total of $3,000. He therefore has 2 quarters of coverage in 1940. The first quarter is a quarter of coverage under paragraph (b) (1) of this section since A was paid $50 in wages in that quarter. The second quarter is a quarter of coverage under paragraph (b) (1) of this section for the same reason, even though, since A died therein, it is not a quarter of coverage under paragraph (b) (2) of this section.

(c) *Determination of fully insured status.* An individual who has 40 quarters of coverage is a fully insured individual. An individual who has less termination of whether he has a fully insured individual. If an individual has less than 40 quarters of coverage the determination of whether he has a fully insured status is made as follows:

(1) *Elapsed quarters.* Take the number of calendar quarters which have elapsed after 1936, or after the quarter in which the individual attained the age of 21 if he attained such age after 1936, and up to but excluding the quarter in which the individual attained the age of 65 or died, whichever first occurred. If the number of such elapsed quarters is an odd number, subtract one. Take one-half of the elapsed quarters thus obtained, and the resulting number, if 6 or more, is the number of quarters of coverage required. If the resulting number is less than 6, the minimum of 6 quarters of coverage is required.

(2) *Quarters of coverage determined.* Determine the number of quarters of coverage the individual has acquired. If this number equals or exceeds the number required, the individual is fully insured.

A quarter of coverage may be acquired at any time subsequent to December 31, 1936, regardless of whether there are any elapsed quarters under subparagraph (1) of this paragraph, and regardless of the age of the individual (except as indicated in §§ 403.802 and 403.827 with respect to services performed prior to 1939 by an individual after attainment of age 65)

Quarters of coverage need not be consecutive and no particular order of their acquisition is required.

Example 1. A attained age 65 on January 1, 1935. Beginning with January 1937 he was paid $30 in each month through December 1938. He was paid wages of $30 in each month from January 1, 1939, through December 1940, except that he was paid no wages in January and February 1940.

A has no quarters of coverage before 1939 (remuneration earned prior to 1939 is not wages because A was over the age of 65 (see §§ 403.802 and 403.827)). He has 4 quarters of coverage in 1939, and 3 in 1940, giving a total of 7 quarters of coverage.

No calendar quarters elapsed after 1936 and before attainment of age 65, since A attained age 65 before January 1, 1937. The minimum requirement of 6 quarters of coverage therefore applies and A meets this minimum. A is a fully insured individual.

Example 2: A applies for primary insurance benefits on January 1, 1940. He was paid wages of $30 in each month, beginning with July 1938 and ending with December 1939. He attained age 65 in July 1939.

A has 2 quarters of coverage in 1938 and 3 in 1939, making a total of 6 quarters of coverage. The quarters elapsing after 1936 and prior to the quarter in which he attained age 65 are 10. Since one-half of the elapsed quarters is less than 6, the minimum requirement of 6 quarters of coverage is operative. A, who has 6 quarters of coverage, is therefore fully insured.

If A had attained age 65 in June 1940, 13 quarters would have elapsed. Since 13 is an odd number, one is subtracted, leaving the figure 12 as a basis for computing the number of quarters of coverage required. One-half of 12 is 6, which is the number of quarters of coverage required and is the number A has acquired. A would therefore be fully insured.

SECTION 209 (h) OF THE ACT

The term "currently insured individual" means any individual with respect to whom it appears to the satisfaction of the Board that he has been paid wages of not less than $50 for each of not less than six of the twelve calendar quarters, immediately preceding the quarter in which he died.

§ 403.202 *Currently insured status—* (a) *Benefits based upon currently insured status.* A wage earner who does not become fully insured (see § 403.201) may nevertheless have a wage history which, upon his death, will give him the status of a currently insured individual. Unless he dies either fully or currently insured, his widow or surviving child cannot become entitled to widow's current insurance benefits or child's insurance benefits, nor can any person become entitled to a lump sum, on the basis of his wages. (See subpart D as to conditions of entitlement.)

(b) *Determination of currently insured status.* An individual who has been paid wages of not less than $50 for each of not less than 6 of the 12 calendar quarters immediately preceding the quarter in which he died, is a currently insured individual. Such wages need not have been paid for consecutive quarters within such 12-quarter period. The age of the individual at death is immaterial.

(c) *"Wages" paid "for" a quarter* (1) For the purpose of this section, in determining whether the individual has been paid "wages" of $50 for a quarter, the provisions of sections 209 (a) (1), 209 (a) (2) and 209 (g) of the act with respect to an individual who has been paid remuneration of $3,000 or more in a calendar year (see §§ 403.828 (a) and 403.201) do not apply.

(2) Moreover, the basis for determining currently insured status differs from the provisions with respect to fully insured status in that the basis for determining currently insured status is wages paid "for" a calendar quarter, while a quarter of coverage under section 209 (g) of the act is basically defined in terms of wages paid "in" a calendar quarter. In the absence of evidence showing the contrary, it will be presumed, for the purposes of determining currently insured status, that wages paid in a calendar quarter have been paid for that quarter.

Example 1. A is paid wages of $30 in each month for services performed in that month, beginning with July 1939. He dies in January 1941, at the age of 30.

A died a currently insured individual, since he was paid wages of more than $50 for each of 6 of the 12 calendar quarters immediately preceding the quarter in which he died.

If A had been paid wages semiannually, on June 30 and December 31, instead of monthly, he would likewise be currently insured, since it could be shown that he was paid more than $50 in wages for each of 6 out of the 12 calendar quarters immediately preceding the quarter in which he died.

Example 2: A is paid wages of $30 for each month during the entire year 1938, and from July 1, 1940, to December 31, 1940, a total of 6 calendar quarters. He dies in January 1941.

A died a currently insured individual, since he was paid wages of more than $50 for each of 6 out of the 12 calendar quarters immediately preceding the quarter in which he died. His status is not affected by the fact that such wages were not paid for consecutive quarters.

Example 3: In the second quarter of 1941, A is paid wages of $3,000, for the first two quarters of that year, by one or more employers, and thereafter he is paid remuneration for services rendered in "employment" at the rate of $50 or more for each subsequent quarter of the year. The wage earner has acquired four quarters toward a currently insured status during that year. The same result would apply if this remuneration had been paid in the same manner for services in employment rendered for a single employer in the year 1937, 1938, or 1939.

Subpart C—Basic Computation of Benefits and Lump Sums

Section 209 (e) of the Act

The term "primary insurance benefit" means an amount equal to the sum of the following—

(1) (A) 40 per centum of the amount of an individual's average monthly wage if such average monthly wages does not exceed $50, or (B) if such average monthly wage exceeds $50, 40 per centum of $50, plus 10 per centum of the amount by which such average monthly wage exceeds $50 and does not exceed $250, and

(2) an amount equal to 1 per centum of the amount computed under paragraph (1) multiplied by the number of years in which $200 or more of wages were paid to such individual. Where the primary insurance benefit thus computed is less than $10, such benefits shall be $10.

Section 5 (b) of the Act Approved December 29, 1945 (59 Stat. 669)

* * * No payment shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of section 209 (b) of such act, as amended.

§ 403.301 *Primary insurance benefit defined.* The amount of an individual's primary insurance benefit is computed on the basis of his average monthly wage (see § 403.302) The primary insurance benefit is computed as follows:

(a) If the individual's average monthly wage does not exceed $50, take $40 per centum of such average monthly wage. If the average monthly wage exceeds $50, take 40 per centum of $50 and add thereto 10 per centum of the amount by which the average monthly wage exceeds $50 and does not exceed $250.

(b) Determine the number of calendar years in which $200 or more of wages were paid to the individual and multiply 1 per centum of the amount computed under paragraph (a) of this section by the number of such years.

(c) Add the figure computed under paragraph (a) of this section and the figure computed under paragraph (b) of this section. The sum so obtained is the primary insurance benefit. If such sum is less than $10, it is increased to $10.

The primary insurance benefit is the monthly amount payable to an individual (subject to deductions and adjustments under subparts E and F) who has fulfilled all the conditions of entitlement to primary insurance benefits under section 202 (a) of the act (see § 403.402). It also constitutes a measure of the amount of all other benefits under section 202 of the act, and the maximum lump sum payable under section 202 (g) of the act is 6 times the primary insurance benefit. The primary insurance benefit of a wage earner who is a fully insured or currently insured individual must, therefore, always be computed for the purpose of measuring the amount of such other benefits and of the lump sum, even though the wage earner dies without having become entitled to receive any payment under section 202 (a) of the act.

The primary insurance benefit as computed under section 209 (e) of the act cannot be increased or decreased because of wages paid after the death of the wage earner. Wages paid after the wage earner has become entitled to receive primary insurance benefits under section 202 (a) of the act may be included to increase the primary insurance benefit if an application for recomputation is filed. (See § 403.704 (c).)

In the computation of benefits there will not be included any sums paid as wages for services performed prior to January 1, 1946, in the employ of an international organization as defined by section 209 (b) (16) of the act as amended (see § 403.826a)

Example 1: During the years 1937, 1938, and 1939 A was paid wages of $15 in each month. Thereafter he is paid wages of $100 in each month. He dies fully insured on January 1, 1950, at the age of 43.

A's average monthly wage determined pursuant to § 403.302 is $50.38. Forty per centum of $50 is $20, and 10 per centum of the amount by which the average monthly wage exceeds $50 is $3.04, making a total of $23.04. The number of years in which $200 or more of wages was paid is ten. Ten times 1 per centum of $23.04 is $2.30, giving a primary insurance benefit of $25.34. (If the amount so computed were less than $10, the primary insurance benefit would be $10.)

If A had been survived by a widow entitled to a widow's current insurance benefit, and by a child entitled to a child's insurance benefit, the benefits of the widow and the child would be basically computed at three-fourths and one-half, respectively, of A's primary insurance benefit, although A died without becoming entitled to receive primary insurance benefits.

Section 209 (f) of the Act

The term "average monthly wage" means the quotient obtained by dividing the total wages paid an individual before the quarter in which he died or became entitled to receive primary insurance benefits, whichever first occurred, by three times the number of quarters, elapsing after 1936, and before such quarter in which he died or became so entitled, excluding any quarter prior to the quarter in which he attained the age of twenty-two during which he was paid less than $50 of wages and any quarter, after the quarter in which he attained age sixty-five, occurring prior to 1939.

§ 403.302 *Average monthly wage.* An individual's "average monthly wage" is computed by dividing his total wages by three times the number of his expired quarters.

"Expired quarters" means the number of calendar quarters elapsing after 1936 and before the quarter in which the individual died or became entitled (on his last application for benefits or recomputation of benefits—see § 403.704 (c)) to receive primary insurance benefits, whichever first occurred, excluding (a) any quarter prior to the quarter in which such individual attained the age of 22, during which he was paid less than $50 in wages, and (b) any quarter after the quarter in which he attained the age of 65 occurring prior to 1939.

"Total wages" means all the wages paid to the individual before the quarter in which he died or became entitled (on his last application for benefits or recomputation for benefits—see § 403.704 (c)) to primary insurance benefits, whichever occurred first, except wages for services performed in the employ of an international organization as defined by section 209 (b) (16) of the act prior to January 1, 1946 (see § 403.826a). (All wages paid for services performed before such individual attained the age of 22 are included in his total, but remuneration for services performed by such individual after he attained the age of 65, and prior to January 1, 1939, is excluded, since such remuneration is not wages under section 209 (a) of the act (see §§ 403.624 and 403.827))

Example 1: A is paid wages of $15 per month from January 1, 1940, through December 31, 1949, and is paid wages of $30 per month from January 1, 1941, through December 31, 1945. He attains age 22 in January 1942 and dies in January 1946.

A's total wages are $180 for 1940 and $1,080 for each of the years 1941 to 1945, inclusive, making $5,580.

Quarters in the year 1940 are not counted as "expired quarters" since they occurred prior to the quarter in which A attained the age of 22 and since A was paid less than $50 in each of them. The expired quarters are, therefore, 4 for each of the years 1941 to 1945, inclusive, making a total of 20, which, multiplied by 3, gives 60.

A's average monthly wage is $5,580 divided by 60, or $93.

Example 2: A is paid wages of $100 per month during the years 1937 and 1939 and $75 per month during 1940. He is paid wages of $50 in January 1938. A attains age 65 February 1, 1938, and dies in January 1941.

A's "total wages" are $1,200 for the year 1937, $50 for the year 1938, $1,200 for the year 1939, and $300 for the year 1940, making $2,750.

Quarters in the year 1938 after the first quarter are not counted as "expired quarters" since they occurred after A attained age 65 and prior to January 1, 1939. The expired quarters are, therefore, 4 for 1937, 1 for 1938, and 4 for each of the years 1939 and 1940, making a total of 13, which, multiplied by 3, gives 39.

A's average monthly wage is $2,750 divided by 39, or $70.15.

Subpart D—Old-Age and Survivors Insurance Benefit Payments

§ 403.401 *General effect of section 202 of the act*—(a) *Conditions of entitlement.* This section states the conditions of entitlement to insurance benefits under subsections (a), (b) (c), (d), (e), and (f) of section 202 of the act and to a lump-sum death payment under section 202 (g) of the act (see §§ 403.402 to 403.428 inclusive). All of the several conditions of entitlement to benefits may be met in a single month, or part may be met in one month and part in another month or months, but all of such conditions must ultimately be met in one month.

(b) *Period for which payment is made.* A benefit is payable for each month dur-

ing the period of entitlement, but a benefit for a particular month is not necessarily paid within that month. Payments of lump sums are nonrecurring and are made as soon as it is determined that a person is entitled thereto.

(c) *Determination of amount to be paid.* (1) The amount of a benefit or lump sum, as calculated under section 202 of the act, is normally the same as the amount paid to the beneficiary. In the case of benefits (other than primary insurance benefits) the amount calculated under section 202 of the act may, however, under certain circumstances, be reduced or increased for any particular month (see § 403.502) and in the case both of benefits (including primary insurance benefits) and lump sums, deductions and adjustments may be required. (See §§ 403.503 to 403.505, and § 403.601.) Under the conditions set forth in the sections of the regulations mentioned, therefore, the amount actually paid to the beneficiary for a month may be more or less than the amount calculated under section 202 of the act.

(2) The amount of a benefit for a month as calculated under section 202 of the act, as well as any such amount as reduced or increased under section 203 (a) or (b) of the act (where required, see § 403.502) is referred to in the regulations in this part as the benefit to which an individual is "entitled" or as the benefit "payable." Likewise, the amount of a lump sum as calculated under section 202 of the act is referred to as the lump sum to which an individual is "entitled" or as the lump sum "payable." It is this amount (as reduced or increased if required, in the case of benefits) which is the basis for making deductions and adjustments.

SECTION 202 (a) OF THE ACT

Every individual, who (1) is a fully insured individual (as defined in section 209 (g)) after December 31, 1939, (2) has attained the age of sixty-five, and (3) has filed application for primary insurance benefits, shall be entitled to receive a primary insurance benefit (as defined in section 209 (e)) for each month, beginning with the month in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies.

§ 403.402 *Primary insurance benefits*—(a) *Conditions of entitlement.* An individual is entitled to primary insurance benefits if he:

(1) Is a fully insured individual (see § 403.201) after December 31, 1939; and

(2) Has attained the age of 65 (see § 403.801) and

(3) Has filed an application (see § 403.701) for primary insurance benefits.

(b) *Duration and rate of benefits.* An individual is entitled to a primary insurance benefit for each month beginning with the first month after December 1939 in which all of the conditions of entitlement are satisfied. The last month for which such individual is entitled to such benefit is the month immediately preceding the month in which he dies.

The amount of the primary insurance benefit to which an individual is entitled is computed according to § 403.301.

Example: A attains the age of 65 in March 1940, becomes fully insured in April 1940, and files application for primary insurance benefits in that month. April will be the first month for which he may be entitled. If he dies in July 1940, June is the last month for which he will have been entitled to benefits.

SECTION 202 (b) OF THE ACT

(1) Every wife (as defined in section 209 (i)) of an individual entitled to primary insurance benefits, if such wife (A) has attained the age of sixty-five, (B) has filed application for wife's insurance benefits, (C) was living with such individual at the time such application was filed, and (D) is not entitled to receive primary insurance benefits, or is entitled to receive primary insurance benefits each of which is less than one-half of a primary insurance benefit of her husband, shall be entitled to receive a wife's insurance benefit for each month, beginning with the month in which she becomes so entitled to such insurance benefits, and ending with the month immediately preceding the first month in which any of the following occurs: she dies, her husband dies, they are divorced a vinculo matrimonii, or she becomes entitled to receive a primary insurance benefit equal to or exceeding one-half of a primary insurance benefit of her husband.

(2) Such wife's insurance benefit for each month shall be equal to one-half of a primary insurance benefit of her husband, except that, if she is entitled to receive a primary insurance benefit for any month, such wife's insurance benefit for such month shall be reduced by an amount equal to a primary insurance benefit of such wife.

§ 403.403 *Wife's insurance benefits*—(a) *Conditions of entitlement.* A wife is entitled to wife's insurance benefits if she:

(1) Is the wife (see § 403.830) of an individual who is entitled to receive primary insurance benefits (see § 403.402), and

(2) Has attained the age of 65 (see § 403.801) and

(3) Has filed an application (see § 403.701) for wife's insurance benefit, and

(4) Was living with (see § 403.834) such individual at the time her application was filed (see § 403.701 (f)) and

(5) Is not entitled to a primary insurance benefit which is equal to or in excess of one-half of the primary insurance benefit of her husband.

(b) *Duration of benefits.* A wife is entitled to a wife's insurance benefit for each month beginning with the first month after December 1939 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month immediately preceding the first month in which any of the following events occurs:

(1) She dies; or

(2) Her husband dies; or

(3) The bonds of matrimony between the wife and her husband are absolutely and finally terminated; or

(4) She becomes entitled to a primary insurance benefit which is equal to or in excess of one-half of a primary insurance benefit of her husband.

(c) *Rate of benefit.* The wife's insurance benefit for a month is an amount equal to one-half of the primary insurance benefit of her husband; but if the wife is, or becomes, entitled to a primary insurance benefit which is less than one-half of such benefit of her husband, then for each month, beginning with the month in which she becomes entitled to such primary insurance benefit, the wife's insurance benefit is reduced by an amount equal to her primary insurance benefit.

Example: H, husband, is entitled to a primary insurance benefit of $30. W, his wife, if otherwise qualified, will be entitled to a wife's insurance benefit of $15. If, however, for any month or months, she is entitled to a primary insurance benefit of $10, her wife's insurance benefit must be reduced to $5 for each such month, under paragraph (c) of this section.

SECTION 202 (c) OF THE ACT

(1) Every child (as defined in section 209 (k)) of an individual entitled to primary insurance benefits, or of an individual who died a fully or currently insured individual (as defined in section 209 (g) and (h)) after December 31, 1939, if such child (A) has filed application for child's insurance benefits, (B) at the time such application was filed was unmarried and had not attained the age of 18, and (C) was dependent upon such individual at the time such application was filed, or, if such individual has died, was dependent upon such individual at the time of such individual's death, shall be entitled to receive a child's insurance benefit for each month, beginning with the month in which such child becomes so entitled to such insurance benefits, and ending with the month immediately preceding the first month in which any of the following occurs: such child dies, marries, is adopted, or attains the age of eighteen.

(2) Such child's insurance benefit for each month shall be equal to one-half of a primary insurance benefit of the individual with respect to whose wages the child is entitled to receive such benefit, except that, when there is more than one such individual such benefit shall be equal to one-half of whichever primary insurance benefit is greatest.

(3) A child shall be deemed dependent upon a father or adopting father, or to have been dependent upon such individual at the time of the death of such individual, unless, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child had been adopted by some other individual, or

(C) such child, at the time of such individual's death, was living with and supported by such child's stepfather.

(4) A child shall be deemed dependent upon a mother, adopting mother, or stepparent, or to have been dependent upon such individual at the time of the death of such individual, only if, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, no parent other than such individual was contributing to the support of such child and such child was not living with its father or adopting father.

§ 403.404 *Child's insurance benefits*—(a) *Conditions of entitlement.* A child is entitled to child's insurance benefits if he:

(1) Is the child (see § 403.832) of an individual who either:

(i) Is entitled to primary insurance benefits (see § 403.402), or

(ii) Died after December 31, 1939, and was fully insured or currently insured (see §§ 403.201 and 403.202) at the time of death; and

(2) Has filed an application for child's insurance benefits, and at the time of filing such application (see § 403.701)

(i) Was unmarried; and

(ii) Had not attained the age of 18 (see § 403.801) and

(iii) Was dependent upon (see paragraphs (d) and (e) of this section) the individual with respect to whose wages benefits are claimed or, if such individual had died, was dependent upon such individual at the time of the individual's death.

(b) *Duration of benefits.* A child is entitled to a child's insurance benefit for each month beginning with the first month after December 1939 in which all of the conditions of entitlement are satisfied. If the child is born after the death of the individual with respect to whose wages benefits are claimed, the first month for which the child may be entitled to such a benefit is the month in which such child is born. The last month for which a child is entitled to such benefit is the month immediately preceding the first month in which any of the following events occurs:

(1) The child dies; or

(2) The child marries; or

(3) The child is adopted by an individual other than the individual with respect to whose wages such child is entitled to benefits; or

(4) The child attains the age of 18.

(c) *Rate of benefit.* The child's insurance benefit for a month is an amount equal to one-half of the primary insurance benefit of the individual with respect to whose wages the child is entitled to benefits. If there is more than one individual (living or deceased) with respect to whose wages the child is entitled to benefits, the child's benefit is equal to one-half of the primary insurance benefit of whichever individual's primary insurance benefit is greatest.

(d) *Dependency upon a father or adopting father*—(1) *Applications based on wages of living individual.* A child who has filed application for child's insurance benefits, based on the wages of a father or adopting father then living, is deemed to have been dependent upon such individual at the time the child's application was filed if, at such time, such individual was either living with or contributing to the support of the child.

Even though the father or adopting father was not living with or contributing to the support of the child at the time the child's application was filed, the child is deemed to have been dependent upon such individual at such time if such child:

(i) Was either the legitimate or adopted child of such individual; and

(ii) Was not then the adopted child of some other individual.

(2) *Applications based on wages of deceased individual.* A child who has filed application for child's insurance benefits based on the wages of a deceased father or adopting father is deemed to have been dependent upon such individual at the time of such individual's death if, at such time, such individual was either living with or contributing to the support of the child.

Even though the father or adopting father was not living with or contributing to the support of the child at the time of such individual's death, the child is deemed to have been dependent upon such individual at such time if the child:

(i) Was either the legitimate or adopted child of such individual; and

(ii) Was not then the adopted child of some other individual; and

(iii) Was not living with and being supported by its stepfather.

(e) *Dependency upon mother adopting mother, or stepparent.* A child who has filed application for child's insurance benefits based upon the wages of its mother, adopting mother, or stepparent is deemed to have been dependent upon such individual at the time such application was filed (if such individual was then living), or to have been dependent upon such individual at the time of the individual's death, as the case may be, if at such time both the following conditions exist:

(1) Neither its father nor adopting father was contributing to the support of the child, and

(2) The child was not living with its father or adopting father.

Example: C, the child of F and M, the father and mother, is living with an uncle. F and M each pay the uncle $5.00 per week for the support of C. C is dependent upon F. C is not dependent upon M since, under item (1) of paragraph (e) of this section, the child is not dependent upon the mother if the father contributes to its support.

SECTION 202 (d) OF THE ACT

(1) Every widow (as defined in section 209 (j) of an individual who died a fully insured individual after December 31, 1939, if such widow (A) has not remarried, (B) has attained the age of sixty-five, (C) has filed application for widow's insurance benefits, (D) was living with such individual at the time of his death, and (E) is not entitled to receive primary insurance benefits, or is entitled to receive primary insurance benefits each of which is less than three-fourths of a primary insurance benefit of her husband, shall be entitled to receive a widow's insurance benefit for each month, beginning with the month in which she becomes so entitled to such insurance benefits and ending with the month immediately preceding the first month in which any of the following occurs: she remarries, dies, or becomes entitled to receive a primary insurance benefit equal to or exceeding three-fourths of a primary insurance benefit of her husband.

(2) Such widow's insurance benefit for each month shall be equal to three-fourths of a primary insurance benefit of her deceased husband, except that, if she is entitled to receive a primary insurance benefit for any month, such widow's insurance benefit for such month shall be reduced by an amount equal to a primary insurance benefit of such widow.

§ 403.405 *Widow's insurance benefits*—(a) *Conditions of entitlement.* A widow is entitled to widow's insurance benefits if she:

(1) Is the widow (see § 403.831) of an individual who died after December 31, 1939, and who, at the time of death, was fully insured (see § 403.201), and

(2) Has not remarried; and

(3) Has attained the age of 65 (see § 403.801), and

(4) Has filed an application (see § 403.701) for widow's insurance benefits; and

(5) Was living with (see § 403.834) her husband at the time of his death; and

(6) Is not entitled to a primary insurance benefit (see § 403.402) which is equal to or in excess of three-fourths of the primary insurance benefit of her deceased husband.

(b) *Duration of benefits.* A widow is entitled to a widow's insurance benefit for each month beginning with the first month after December 1939 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month immediately preceding the first month in which any of the following events occurs:

(1) She remarries; or

(2) She dies; or

(3) She becomes entitled to a primary insurance benefit which is equal to or in excess of three-fourths of the primary insurance benefit of her deceased husband.

(c) *Rate of benefit.* The widow's insurance benefit for a month is an amount equal to three-fourths of the primary insurance benefit of her deceased husband; but if the widow is, or becomes, entitled to a primary insurance benefit which is less than three-fourths of such benefit of her deceased husband, then for each month, beginning with the month in which she becomes entitled to such primary insurance benefit, the widow's insurance benefit is reduced by an amount equal to her primary insurance benefit.

SECTION 202 (e) OF THE ACT

(1) Every widow (as defined in section 209 (j) of an individual who died a fully or currently insured individual after December 31, 1939, if such widow (A) has not remarried, (B) is not entitled to receive a widow's insurance benefit, and is not entitled to receive primary insurance benefits, or is entitled to receive primary insurance benefits each of which is less than three-fourths of a primary insurance benefit of her husband, (C) was living with such individual at the time of his death, (D) has filed application for widow's current insurance benefits, and (E) at the time of filing such application has in her care a child of such deceased individual entitled to receive a child's insurance benefit, shall be entitled to receive a widow's current insurance benefit for each month, beginning with the month in which she becomes so entitled to such current insurance benefits and ending with the month immediately preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to receive a child's insurance benefit, she becomes entitled to receive a primary insurance benefit equal to or exceeding three-fourths of a primary insurance benefit of her deceased husband, she becomes entitled to receive a widow's insurance benefit, she remarries, she dies.

(2) Such widow's curent insurance benefit for each month shall be equal to three-fourths of a primary insurance benefit of her deceased husband, except that, if she is entitled to receive a primary insurance benefit for any month, such widow's current insurance benefit for such month shall be reduced by an amount equal to a primary insurance benefit of such widow.

§ 403.406 *Widow's current insurance benefits*—(a) *Conditions of entitlement.* A widow is entitled to widow's current insurance benefits if she:

(1) Is the widow (see § 403.831) of an individual who died after December 31,

1939, and who, at the time of death, was fully insured or currently insured (see §§ 403.201 and 403.202) and

(2) Has not remarried; and

(3) Is not entitled to a widow's insurance benefit (see § 403.405) and

(4) Is not entitled to a primary insurance benefit (see § 403.402) which is equal to or in excess of three-fourths of the primary insurance benefit of her deceased husband; and

(5) Was living with (see § 403.834) her husband at the time of his death; and

(6) Has filed an application (see § 403.701) for widow's current insurance benefits; and

(7) Had in her care (see paragraph (d) of this section, at the time of filing her application (see § 403.701 (f)) a child of her deceased husband entitled to receive a child's insurance benefit (see § 403.404)

(b) *Duration of benefits.* A widow is entitled to a widow's current insurance benefit for each month beginning with the first month after December 1939 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month immediately preceding the first month in which any of the following events occurs:

(1) No child of the widow's deceased husband is entitled to a child's insurance benefit; or

(2) She becomes entitled to a primary insurance benefit which is equal to or in excess of three-fourths of the primary insurance benefit of her deceased husband; or

(3) She becomes entitled to a widow's insurance benefit (see § 403.405) or

(4) She remarries; or

(5) She dies.

(c) *Rate of benefit.* The widow's current insurance benefit for a month is an amount equal to three-fourths of the primary insurance benefit of her deceased husband; but if the widow is, or becomes, entitled to a primary insurance benefit which is less than three-fourths of such benefit of her deceased husband, then for each month, beginning with the month in which she becomes entitled to such primary insurance benefit, the widow's current insurance benefit is reduced by an amount equal to her primary insurance benefit.

(d) *Meaning of "in her care."* A widow has a child "in her care" within the meaning of paragraph (a) (7) of this section if she takes parental responsibility for the welfare and care of such child even though she does not live in the same home with the child.

Example: W, the widow of H, places C, H's child, in the home of an aunt. W pays the aunt for the support of C although the amount is insufficient to fully support the child. W regularly advises with the aunt as to the care and training of C and has never agreed not to take C away from the aunt. W has C in her care.

SECTION 202 (f) OF THE ACT

(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual after December 31, 1939, leaving no widow and no unmarried surviving child under the age of eighteen, if such parent (A) has attained the age of sixty-five, (B) was wholly dependent upon and supported by such individual at the time of such individual's death and file proof of such dependency and support within two years of such date of death, (C) has not married since such individual's death, (D) is not entitled to receive any other insurance benefits under this section, or is entitled to receive one or more of such benefits for a month, but the total for such month is less than one-half of a primary insurance benefit of such deceased individual, and (E) has filed application for parent's insurance benefits, shall be entitled to receive a parent's insurance benefit for each month, beginning with the month in which such parent becomes so entitled to such parent's insurance benefits and ending with the month immediately preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to receive for any month an insurance benefit or benefits (other than a benefit under this subsection) in a total amount equal to or exceeding one-half of a primary insurance benefit of such deceased individual.

(2) Such parent's insurance benefit for each month shall be equal to one-half of a primary insurance benefit of such deceased individual, except that, if such parent is entitled to receive an insurance benefit or benefits for any month (other than a benefit under this subsection), such parent's insurance benefit for such month shall be reduced by an amount equal to the total of such other benefit or benefits for such month. When there is more than one such individual with respect to whose wages the parent is entitled to receive a parent's insurance benefit for a month, such benefit shall be equal to one-half of whichever primary insurance benefit is greatest.

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

§ 403.407 *Parent's insurance benefits*—(a) *Conditions of entitlement.* A parent is entitled to parent's insurance benefits if he:

(1) Is the parent (see § 403.833) of an individual who:

(i) Died after December 31, 1939; and

(ii) Was fully insured (see § 403.201) at the time of death; and

(iii) Was survived neither by a widow (see § 403.831) nor an unmarried child under the age of 18 (see paragraph (d) of this section) and

(2) Has attained the age of 65 (see § 403.801) and

(3) Was wholly dependent upon and supported by (see paragraph (e) of this section) such individual at the time of such individual's death and; except as otherwise provided in § 403.701 (j) has filed proof of such dependency and support within 2 years after the date of such death; and

(4) Has not married since the death of such individual; and

(5) Is not entitled to any other benefit or benefits under section 202 of the act (see §§ 403.402, 403.403, 403.405, and 403.406) in a total amount for any month which is equal to or in excess of one-half of the primary insurance benefit of such deceased individual; and

(6) Has filed an application (see § 403.701) for parent's insurance benefits.

One or more parents of a fully insured individual may become entitled to benefits hereunder.

(b) *Duration of benefits.* A parent is entitled to a parent's insurance benefit for each month beginning with the first month after December 1939 in which all of the conditions of entitlement are satisfied. The last month for which such parent is entitled to such benefits is the month immediately preceding the first month in which any of the following events occur:

(1) The parent dies; or

(2) The parent marries; or

(3) The parent becomes entitled to an insurance benefit or benefits (other than a parent's insurance benefit) under section 202 of the act, in a total amount for any month which is equal to or in excess of one-half of the primary insurance benefit of the deceased individual with respect to whose wages the parent is entitled to parent's insurance benefits.

(c) *Rate of benefit.* The parent's insurance benefit for a month is an amount equal to one-half of the primary insurance benefit of the deceased individual with respect to whose wages the parent is entitled to benefits; but if such parent is, or becomes, entitled to an insurance benefit or benefits (other than a parent's insurance benefit) under section 202 of the act, in a total amount for any month which is less than one-half of such primary insurance benefit of such deceased individual, then for each month, beginning with the month in which the parent becomes entitled to such other benefit or benefits, the parent's insurance benefit is reduced by an amount equal to the total of such other benefits for such month:

If there is more than one deceased individual with respect to whose wages a parent is entitled to receive a parent's insurance benefit for a month, such benefit shall be an amount equal to one-half of whichever deceased individual's primary insurance benefit is greatest.

Example: P aged 60, is the parent of A and B. P is wholly dependent upon and supported by A during 1940; A dies in December of that year. P is thereafter wholly dependent upon and supported by B until B's death in 1942. Both A and B were fully insured at the time of their deaths and neither was survived by a widow or unmarried child under the age of 18. P, upon attaining age 65 and meeting the other conditions of entitlement, will be entitled to parent's insurance benefits based upon the primary insurance benefit of A or B, whichever is the largest, since he was wholly dependent upon and supported by A at A's death and wholly dependent upon and supported by B at B's death.

If at the time of A's death, P was dependent upon and supported by both A and B, and thereafter was wholly dependent upon and supported by B alone, P would be entitled to parent's insurance benefits based upon B's wages, but not upon A's wages, since he would not have been wholly dependent upon and supported by A at the time of A's death.

(d) *Surviving child.* The deceased insured individual shall be deemed to have left a surviving child (see § 403.832) who was unmarried and under age of 18, within the meaning of section 202 (f) (1) of the act (see paragraph (a) above), if any such child was living after the individual's death, even though born thereafter.

(e) *"Wholly dependent upon and supported by."* A parent is "wholly dependent upon and supported by" an in-

dividual if such parent is supported by such individual and:

(1) Has no income or means of support other than the income or support received from such individual; or

(2) Has only inconsequential income or means of support other than that received from such individual.

SECTION 202 (g) OF THE ACT

Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump-sum to the following person (or if more than one, shall be distributed among them) whose relationship to the deceased is determined by the Board, and who is living on the date of such determination: To the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children of the deceased and to any other person or persons who are, under the intestacy law of the State where the deceased was domiciled, entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law; or, if no widow or widower and no such chil'd and no such other person be then living, to the parent or to the parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this subsection by reason of the fact that no such named relative survived the deceased or of the fact that no such named relative of the deceased was living on the date of such determination. If none of the persons described in this subsection be living on the date of such determination, such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such individual.

§ 403.408 *Lump-sum death payments*—(a) *Conditions of payment.* A lump sum is payable to one or more of the persons described in paragraph (b) of this section if:

(1) An individual has died, after December 31, 1939, who was a fully insured individual or currently insured individual (see §§ 403.201 and 403.202) at the time of his death; and

(2) Such deceased individual was not survived by a widow, child, or parent (see paragraph (d) (1) of this section) who, upon filing application therefor in the month in which such individual died, would be entitled to receive a child's insurance benefit, widow's insurance benefit, widow's current insurance benefit, or parent's insurance benefit (see §§ 403.404, 403.405, 403.406, and 403.407) for such month with respect to the wages of such deceased individual; and

(3) An application (see § 403.701) for such lump sum has, except as otherwise provided in § 403.701 (j) been filed within 2 years following the death of such individual.

A lump sum is payable under the above stated conditions even though the deceased individual was entitled to primary insurance benefits and even though, for any month prior to the month in which such individual died, his wife or child was entitled to wife's insurance benefits or child's insurance benefits with respect to his wages. The lump sum is not in lieu of, and does not affect, later entitlement of survivors to monthly insurance benefits.

Example: H was entitled to primary insurance benefits at the time of his death in June. H was survived only by W, his wife, and C, his child. C had been entitled to child's insurance benefits with respect to H's wages until he attained the age of 18 prior to H's death. W, at the time of H's death, is under 65. W will be entitled to a lump sum with respect to H's wages. If W thereafter attains the age of 65, and is otherwise qualified, she will be entitled to widow's insurance benefits.

(b) *Persons entitled to receive payments*—(1) *Survivors of deceased.* The following person or persons whose relationship to the deceased insured individual is determined by the Administration, and who are living at the time of such determination, are, in the order named, entitled to a lump sum under the conditions stated in paragraph (a) of this section:

(i) The widow or widower (see paragraph (d) (2) of this section) of such individual. If there is no such widow or widower, the lump sum is payable to

(ii) The child or children (see paragraph (d) (2) of this section) of the deceased and any other person or persons who are, under the intestacy law of the State where the deceased was domiciled, entitled to share with such child or children in the distribution of intestate personal property of such deceased individual. Persons entitled to share with such child or children are not precluded from receiving the lump sum by reason of the fact that no child survived such deceased individual or was living at the time of the Administration's determination of relationship. If there is no such child or other person, then the lump sum is payable to

(iii) The parent or parents (see paragraph (d) (2) of this section) of the deceased.

(2) *Persons equitably entitled.* If none of the persons described under subparagraph (1) of this paragraph is living on the date of the Administration's determination of relationship, the lump sum will be payable to any person or persons equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the burial expenses of the deceased insured individual.

Where an estate is a person equitably entitled, payment will be made only to the legal representative of such estate.

The term "person or persons equitably entitled" does not include, among others, any of the following:

(i) The United States Government or any wholly owned instrumentality thereof.

(ii) Any person under contractual obligation to pay the burial expenses of the deceased, to the extent of such obligation.

(iii) Any person paying the expenses of the burial of a member or employee of such person, to the extent of any payment under a plan, system, or general practice.

(iv) Any person furnishing goods or services in connection with the burial of the deceased, to the extent that goods or services are furnished.

(v) Any person who has been or will be, wholly or partially reimbursed, to the extent of such reimbursement.

(c) *Amount of payment.* The lump sum to which a widow, widower, child (or distributee with the child) or parent, is entitled under paragraph (b) of this section is an amount equal to six times the primary insurance benefit (see § 403.301) of the deceased insured individual. Where there is more than one child or person entitled to share as distributee with a child, the lump sum shall be divided among them in the proportions provided by the intestacy laws of the State where the deceased was domiciled. Where there is more than one parent the lump sum shall be divided equally between such parents.

Where an applicant (other than a person named in paragraph (b) (1) of this section is equitably entitled to a lump sum under paragraph (b) (2) of this section, the amount payable to him will be determined as follows:

(1) If no person other than such applicant is, or becomes, equitably entitled under paragraph (b) (2) of this section, the amount payable will be an amount equal to the amount of burial expenses paid by the applicant, or six times the primary insurance benefit of the deceased, whichever is less.

(2) If two or more persons are, or become, equitably entitled under paragraph (b) (2) of this section, the amount payable to any such applicant is an amount equal to that proportion of six times the amount of the primary insurance benefit of the deceased which the amount of burial expenses paid by such applicant bears to the total amount of burial expenses paid by all persons equitably entitled, but in no event shall the amount paid to such applicant exceed the amount of burial expenses paid by him.

Example 1: X, who paid all of D's burial expenses of $220, is equitably entitled to a lump sum. D's primary insurance benefit is $20, so that the lump sum payable is $120 (6 times $20). X is entitled to the entire amount of the lump sum.

If X had paid $120 and a person or persons not equitably entitled had paid the remaining $100, X would nevertheless be entitled to the entire lump sum. If, under the same circumstances, he had paid $100, the amount payable to him as a lump sum would be only $100.

Example 2: X paid $165 and Y paid $55 toward D's burial expenses of $220. Both X and Y are equitably entitled to a portion of a lump sum. D's primary insurance benefit is $20, so that the lump sum payable is $120. X is entitled to 165/220 (¾) of the lump sum or $90, and Y is entitled to 55/220 (¼) of the lump sum, or $30.

If X had paid $30 and Y $30 and a person or persons not equitably entitled had paid the remaining $160, X and Y would nevertheless be entitled to $30 and $30 respectively. If, under the same circumstances, X had paid $90 and Y $15, the amount payable to X and Y as a lump sum would be only the amounts they actually paid.

Example 3: X paid $100 toward D's burial expenses of $200. The remaining $100 was unpaid. D's primary insurance benefit is

$20, and a lump sum of $120 is payable on the basis of his wages. X is equitably entitled to ½ of the lump sum of $120, or $60. If no other individual becomes equitably entitled hereunder by reason of a payment toward D's burial expenses, X will be equitably entitled to an additional $40.

(d) *Meaning of terms.* (1) The terms "widow," "child," and "parent" as they first appear in section 202 (g) of the act (see paragraph (a) of this section) are used as defined in section 209 (j) of the act (see § 403.831) section 209 (k) of the act (see § 403.832) and section 202 (f) of the act (see § 403.833) respectively.

(2) The meaning of the terms "widow," "child" (or "children"), and "parent" (or "parents") except as they first appear in section 202 (g) of the act, and of the term "widower" as used in such section 202 (g) is determined by reference to applicable State law (see § 403.829) An individual is such a "widow," "widower," "child," or "parent" of a deceased wage earner if he is the widow, widower, child, or parent of the wage earner or has the same status as such, under applicable State law, without regard to the definitions referred to in paragraph (d) (1) of this section.

SUBPART E—REDUCTION AND INCREASE OF INSURANCE BENEFITS AND DEDUCTIONS FROM BENEFITS AND LUMP-SUM DEATH PAYMENTS

§403.501 *Modification in amount of benefits and lump-sum death payments.* Under certain conditions the amount of benefits and lump sums, as calculated under section 202 of the act, must be modified upward or downward in determining the amount actually to be paid to the beneficiary. The modifications in the amount calculated under section 202 of the act occur where (a) reductions or increases of benefits (other than primary insurance benefits) are required under section 203 (a) or (b) of the act, or (b) deductions from benefits or lump sums are required under section 203 (d) (e) (g), or (h) of the act or under section 907 of the Social Security Act Amendments of 1939, or (c) adjustment is required under section 204 (a) of the act. Reductions and increases under section 203 (a) or (b) are always made before any deductions or adjustments are made under sections 203 (d) (e) (g) or (h) of the act, section 907 of the Social Security Act Amendments of 1939, or section 204 (a) of the act.

Regulations concerning these modifications are set forth in the following sections of this subpart and in subpart F As to the use of the terms "entitled" and "payable" in the regulations in this part, see § 403.401 (c) (2)

SECTION 203 (a) OF THE ACT

Whenever the total of benefits under section 202, payable for a month with respect to an individual's wages, is more than $20 and exceeds (1) $85, or (2) an amount equal to twice a primary insurance benefit of such individual, or (3) an amount equal to 80 per centum of his average monthly wage (as defined in section 209 (f)), whichever of such three amounts is least, such total of benefits shall, prior to any deductions under subsections (d), (e), or (h), be reduced to such least amount or to $20, whichever is greater.

SECTION 203 (b) OF THE ACT

Whenever the benefit or total of benefits under section 202, payable for a month with respect to an individual's wages, is less than $10, such benefit or total of benefits shall, prior to any deductions under subsections (d), (e), or (h), be increased to $10.

SECTION 203 (c) OF THE ACT

Whenever a decrease or increase of the total of benefits for a month is made under subsection (a) or (b) of this section, each benefit, except the primary benefit, shall be proportionately decreased or increased, as the case may be.

§ 403.502 *Reductions and increases of benefits.* The subsections quoted above apply only to monthly benefits. Lump sums under section 202 (g) of the act are not subject to reductions or increases hereunder.

(a) *Basis for computing reductions and increases.* Whether there is to be a reduction or increase in any benefit or benefits and the extent of such reduction or increase depends upon the total amount of benefits for a month as calculated under section 202 of the act with respect to the wages of one individual. If there is a primary insurance benefit included in such total, the primary insurance benefit is not reduced and in such a case no increase is possible (see paragraph (c)) If a beneficiary entitled to benefits based upon the wages of such individual is also entitled to benefits based on other wages, such other benefits are excluded from such total.

Example 1: H has an average monthly wage of $250, and a primary insurance benefit of $42 for each month, under section 202 (a) of the Act. H's wife, W, is entitled to a wife's insurance benefit calculated as $21 under section 202 (b) of the Act, and each of his two children, who are under 18, is entitled to a child's insurance benefit calculated as $21 under section 202 (c) of the Act. The amount of benefits for a month to which W and the two children are entitled, as calculated under section 202 of the Act, is therefore $63. This amount, when added to H's primary insurance benefit of $42, makes a total of $105 calculated under such section 202 on the basis of H's wages.

Reductions required under this section of the regulations would be made against this total of $105 (see example 1 under paragraph (b)).

Example 2: If, in the above example, W were entitled to a primary insurance benefit calculated as $15 under section 202 (a) of the Act, the amount of her wife's insurance benefit would, as calculated under section 202 (b) of the Act, be reduced to $6 ($21 less $15), and the total of benefits for the month as calculated under section 202 of the Act on the basis of H's wages would therefore be $90.

Reductions required under this section of the regulations would be made against this total of $90 (see example 2 under paragraph (b)).

(b) *Conditions requiring reduction and amount of reduction.* Reductions are made only when there are two or more benefits for a month based upon the wages of one individual, and when the total amount of such benefits for such month, as calculated under section 202 of the act, is more than $20 and also exceeds one of the following amounts:

(1) $85, or

(2) Twice the primary insurance benefit of such individual, or

(3) 80 per centum of such individual's average monthly wage.

If these conditions exist each of such benefits (except a primary insurance benefit) must be proportionately reduced so that the total of the benefits will be the amount stated in subparagraphs (1), (2) or (3) of this paragraph, whichever is least. If, however, such least amount is under $20, the total is reduced only to $20.

Example 1: In example 1 under paragraph (a) of this section, the total amount ($105) is less than 80 per centum of H's average monthly wage, but is more than $85 and more than two times H's primary insurance benefit of $42. Therefore, a reduction is required to the least of the three amounts stated under paragraph (b) of this section, which is $84 (twice the amount of H's primary insurance benefit).

This reduction is made only against the benefits of the wife and children, since a primary insurance benefit is not subject to reduction or increase under section 203 (a) or (b) of the act. The required reduction is $21 ($105 minus $84). It is divided proportionately among the wife and children, whose benefits totaling $63 are each reduced by 2/3 (⅓) of $21, or $7, giving the wife and child a benefit of $14.

Example 2: In example 2 under paragraph (a) of this section, the total amount calculated under section 202 of the act ($90) is less than 80 per centum of H's average monthly wage, but is more than $85 and more than two times H's primary insurance benefit of $42. Therefore, a reduction is required under paragraph (b) of this section, to $84. The required reduction is $6 ($90 less $84) and is to be made against the benefits of the wife and children, which total $48. The benefit of the wife would be reduced by 4/3 (⅛) of $6 or 75c, giving her a benefit of $5.25, and the benefit of each child would be reduced by 2/3 of $6, or $2.63, giving each child a benefit of $18.37.

Example 3: H has an average monthly wage of $50, and a primary insurance benefit of $21. His wife, W, is entitled to a wife's insurance benefit calculated under section 202 (b) of the act as $10.50, and a child, C, under age 18, is entitled to a child's insurance benefit calculated under section 202 (c) of the act as $10.50, making a total of $42 calculated under section 202 of the act on the basis of H's wages.

This total is less than $85, and is equal to two times H's primary insurance benefit, but is more than 80 per centum of H's average monthly wage of $50. The total must, therefore, under this section of the regulations, be reduced $2, to $40, which is 80 per centum of H's average monthly wage. The reduction is made proportionately against the benefits of W and C, by reducing each by one-half of $2, or $1. W's and C's benefits would accordingly be $9.50 each.

Example 4: H died, and left surviving a widow, W, and 3 children. H had an average monthly wage of $20. H is primary insurance benefit is $10. W is entitled to a widow's current insurance benefit calculated under section 202 (e) as $7.50, and each child is entitled to a child's insurance benefit calculated under section 202 (c) as $5, making a total of $22.50 calculated under section 202 of the act on the basis of H's wages.

This total is less than $85, but is more than twice H's primary insurance benefit ($20) and more than 80 per centum of his average monthly wage ($16). Such total would, therefore, be reduced to $16 (the least of the three amounts under paragraph (b) of this section) except that, since such least amount is less than $20, the total is reduced only to $20. The reduction is made proportionately by reducing W's benefit by

7.50/22.50 (⅓) of $2.50, or 83c, and each child's benefit by 5/22.50 (2/9) of $2.50, or 55c. W's benefit would therefore be $6.67, and each child's benefit would be $4.44.

(c) *Conditions requiring increase and amount of increase.* An increase is made when the benefit or total of benefits for a month calculated under section 202 of the act with respect to the wages of one individual is less than $10, by increasing such benefit or total of benefits to $10.

If there is a primary insurance benefit for such month based on the wages of such individual, no increase is possible, since a primary insurance benefit is always at least $10 (see § 403.301)

(d) *Monthly application of provisions.* The total amount of benefits with respect to a single individual's wages, as calculated under section 202 of the act, may vary from month to month. Accordingly, a reduction or increase may be required in one month and not in another, or the amount of the reduction or increase may be greater or less in one month than in another.

Example: H dies fully insured leaving surviving him a widow, W, and three children, A, B, and C, under the age of 18. H's average monthly wage is $100, and his primary insurance benefit is $28. W is entitled to a widow's insurance benefit calculated as $21 under section 202 (e) of the act, and A, B, and C are each entitled to a child's insurance benefit calculated as $14 under section 202 (c) of the act. The total amount as calculated under section 202 of the act with respect to H's wages is therefore $63.

A reduction of this total to $56 (twice H's primary insurance benefit) is required under paragraph (b) of this section, giving W a benefit of $18.67, and each child a benefit of $12.44.

If C becomes 18 years of age, his benefit ends. The benefit for W and A and B is recalculated for the month in which C became 18, as though C had never been entitled. As recalculated, W's benefit would then be $21 for each month, and A's and B's would each be $14, making a total of $49. Since this amount is less than twice H's primary insurance benefit of $28, no reduction of the benefits as calculated under section 202 of the act is required.

(e) *Relation to provisions for deductions and adjustments.* Reductions and increases under this section of the regulations are made prior to making any deductions which may be required under subsection (d) (e), (g) or (h) of section 203 of the act or under section 907 of the Social Security Act Amendments of 1939, and prior to making any adjustments under section 204 of the act. (See following sections of this subpart and Subpart F.)

Example: H has an average monthly wage of $100 and is entitled to a primary insurance benefit of $26 for each month. W, his wife, is entitled to a wife's insurance benefit of $13 for each month, and his two children are each entitled to a child's insurance benefit of $13 for each month. The total calculated under section 202 of the act would, therefore, be $65, which exceeds twice the primary insurance benefit by $13. A reduction to $52 (twice H's primary insurance benefit) is required under paragraph (b) of this section, giving W, and each child a benefit of $8.66 for each month.

If W renders services in a month for wages of $15 or more, her benefit, as reduced, would be withheld for 1 month (see § 403.503 (a)). The fact that the wife's benefit is withheld, thereby reducing the total of benefits on the basis of H's wages, does not affect the amount of the children's benefits, each of which remains $8.66 for each month.

SECTION 203 (d) OF THE ACT

Deductions, in such amounts and at such time or times as the Board shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits for any month in which such individual:

(1) Rendered services for wages of not less than $15; or

(2) If a child under eighteen and over sixteen years of age, failed to attend school regularly and the Board finds that attendance was feasible; or

(3) If a widow entitled to a widow's current insurance benefit, did not have in her care a child of her deceased husband entitled to receive a child's insurance benefit.

SECTION 203 (e) OF THE ACT

Deductions shall be made from any wife's or child's insurance benefit to which a wife or child is entitled, until the total of such deductions equals such wife's or child's insurance benefit or benefits for any month in which the individual, with respect to whose wages such benefit was payable, rendered services for wages of not less than $15.

SECTION 203 (f) OF THE ACT

If more than one event occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

§ 403.503 *Deductions because of employment, etc.* The subsections of the act quoted above provide for deductions from benefits upon the occurrence of certain events which are enumerated in paragraphs (a) (b) and (c) of this section.

(a) *Employment.* If an individual, in any month for which he is entitled to a benefit, renders services for wages of not less than $15, deductions are made:

(1) From any benefit or benefits to which he is or becomes entitled. The amount to be deducted is equal to the benefit or total of benefits to which he was entitled for the month in which he rendered the services.

(2) From any wife's or child's insurance benefits to which his wife or child is or becomes entitled with respect to such individual's wages. The amount to be deducted is equal to such wife's or child's insurance benefit for the month in which such individual rendered the services.

Since the amount to be deducted is measured by the benefit or total of benefits for the month in which the services were rendered, it is not material in what month the wages of $15 or more were paid.

In determining, for the purpose of this section, whether an individual has rendered services for "wages" of not less than $15, the provisions of section 209 (a) (2) of this act (see § 403.823 (a) (2) of the regulations) in this part do not apply.

Example 1: A is entitled to a primary insurance benefit of $25 for each month. He renders services for wages of $15 in both January and February but does not report this fact to the Administration until March, after the benefits for January and February have been paid.

The total amount to be deducted is $50, since the event occasioning the deduction occurred in each of 2 months. Therefore, $25 will be withheld each month for 2 months, and A will receive no further payment until the total of $50 has been withheld.

Example 2: H is entitled to a primary insurance benefit of $25, and his wife, W, is entitled to a wife's insurance benefit of $12.50 on the basis of his wages. H renders services for wages of $15 in a month. A deduction is required from W's benefits, as well as from H's benefits, because of H's work. If W instead of H rendered the services, deductions would be made from W's benefits but not from H's benefits.

Example 3: A is entitled to a primary insurance benefit of $25. In the months of April, May, and June he renders services for the total wages of $3,000. In July he renders services in employment for remuneration of $500. The total amount to be deducted is $100, notwithstanding the fact that for other purposes any amount paid in excess of $3,000 in a calendar year is not considered "wages" because of the provisions of section 209 (a) (2) of the act.

(b) *Failure of child to attend school.* If a child under 18 and over 16 years of age fails, in any month for which he is entitled to a benefit, to attend school regularly, and the Administration finds that attendance was feasible, deductions are made from any benefit or benefits to which such child is or becomes entitled. The amount to be deducted is equal to the benefit to which such child was entitled for the month in which he failed to attend school regularly.

(c) *Failure of widow to have a child in her care.* If a widow entitled to a widow's current insurance benefit does not, in any month for which she is entitled to such benefit, have in her care a child of her deceased husband entitled to a child's insurance benefit for such month, deductions are made from any benefit or benefits to which such widow is or becomes entitled. The amount to be deducted is equal to the widow's current insurance benefit to which such widow was entitled for the month in which she did not have such a child in her care.

The fact that a child's insurance benefit for a particular month is withheld to effect a deduction under section 203 (d) (e), (g) or (h) of the act or section 907 of the Social Security Act Amendments of 1939, or an adjustment under section 204 of the Act, does not affect the right of a widow who has the child in her care, to a widow's current insurance benefit since the child is nevertheless "entitled" to the benefit. See § 403.401 (c) (2).)

Example: C, the child of H, who is deceased, is entitled to child's insurance benefits based on H's wages. W, the widow of H, is entitled to widow's current insurance benefits. C renders services for wages of $15 in a month.

Although deductions must be made from C's benefits, and he will therefore receive no benefits for 1 month, on account of having rendered such services, C is still "entitled" to child's insurance benefits. Therefore, the fact that C rendered services for wages of $15 does not occasion a deduction from the widow's benefits.

(As to the meaning of the term "in her care" see § 403.406 (d).)

(d) *Manner of making deductions.* Deductions are made by withholding benefits in whole or in part, depending upon the amount to be deducted. If the

amount to be deducted is not withheld from the benefit or benefits for the month in which the event occurred which occasioned the deduction (if, for example, the occurrence has not been brought to the attention of the Administration) such amount will be withheld from benefits for one or more subsequent months. The total amount to be deducted may, therefore, at the time of withholding, be greater or less than any benefit or benefits for a month, from which such amount is to be withheld.

When it is determined that a deduction is required under paragraph (a) (b) or (c) of this section, no benefit for any month will be paid, which is designated in such paragraph as a benefit from which the deduction is to be made, until a total amount equal to the amount to be deducted has been withheld. If the amount of the required deduction is less than any such benefit or the total of any such benefits for a month, the amount to be deducted will be withheld from such benefit or total of benefits.

Example: H is entitled to a primary insurance benefit of $50, and his wife, W, is entitled to a wife's insurance benefit of $25. W works in the month of January for wages of $15, and her benefits thereby become subject to a deduction of $25. W reports to the Administration after her benefit for January has been paid. C, H's child, becomes entitled to a child's insurance benefit of $25 for the month of February. Beginning with that month, W's and C's benefits would each be reduced to $17.50 for each month under section 203 (a) of the act, to bring the total based on H's wages to $85. (See § 403.502.)

To effect the deduction of $25 from W's benefits, her benefit for February would be withheld, and $7.50 would be withheld from her benefit for March.

If C had become entitled to a child's insurance benefit for January, instead of February, W's benefit would have been reduced under section 203 (a) of the act to $17.50 for January. Consequently, the amount deducted on account of her work in January would have been $17.50, instead of $25, and the deduction would be effected by withholding 1 month's benefit.

(e) *Accumulation of deductions.* Section 203 (f) of the act prevents duplication of deductions under paragraphs (a) (b) and (c) above, by reason of the occurrence in 1 month of more than one of the events enumerated in those paragraphs. If more than one such event occurs in a month, the total amount of the deduction is the same as if only one such event had occurred. Section 203 (f) of the act has no application to any other deductions or adjustments under the law. (See paragraph (g) of this section.)

If, however, any of the events occasioning a deduction under paragraph (a) (b), or (c) of this section occurs in more than 1 month, the total amount to be deducted as equal to the sum of the deductions for all months in which any such event occurred.

(See example 1 under paragraph (a) of this section.)

(f) *Relation to provisions for reductions and increases.* In effecting a deduction, no amount can be considered as having been withheld from a benefit for a particular month, which is in excess of the amount of such benefit as reduced or increased (if required) under section 203 (a) or (b) of the act (see § 403.502) Likewise, the amount of a benefit by which a deduction is measured (i. e., a benefit for the month in which the event occasioning the deduction occurred) is the amount of such benefit as so reduced or increased. (See example under paragraph (d) of this section.)

(g) *Relations to other provisions for deductions and adjustments.* A deduction required under section 203 (d) or (e) of the act is made prior to and in addition to any deductions under section 203 (h) of the act or section 907 of the Social Security Act Amendments of 1939 (see § 403.505) and prior to and in addition to any adjustments under section 204 (a) of the act (see § 403.601)

Example: A is entitled to a primary insurance benefit of $25 for each month. He renders services for wages of $15 in each of 2 months. A deduction of $50 is therefore required under section 203 (d) of the act. In order to effect the deduction, his primary insurance benefit is withheld for 2 months. If A had received a payment of $100 under section 204 of the Social Security Act in force prior to August 10, 1939, a deduction of $100 would have to be made from his benefit (see § 403.505 (a)), and his benefits would therefore have to be withheld for an additional 4 months, making a total of 6 months. The first deductions charged against A's benefits are deductions required under section 203 (d) of the act.

(See also example under paragraph (d) of § 403.601.)

SECTION 203 (g) OF THE ACT

Any individual in receipt of benefits subject to deduction under subsection (d) or (e) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event enumerated therein, shall report such occurrence to the Board prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred. Any such individual having knowledge thereof, who fails to report any such occurrence, shall suffer an additional deduction equal to that imposed under subsection (d) or (e).

§ 403.504 *Reports to Administration of events occasioning deductions.* This subsection of section 203 of the act imposes upon an individual the obligation to report to the Administration the occurrence of any of the events enumerated in subsection (d) or (e) of section 203 of the act (see § 403.503) if such individual is in receipt of benefits (on his own behalf or on behalf of another) from which a deduction is to be made under such subsections.

If such individual has knowledge of the occurrence of any such event and fails to report to the Administration prior to the receipt and acceptance of a benefit for the second month following the month in which such event occurred, a deduction is made (except as noted below) in addition to that required under section 203 (d) or (e) of the act. If, however, either a wage earner, or another individual in receipt of benefits based on his wages, reports to the Administration within the time prescribed, that such wage earner rendered services in a month for wages of $15 or more (see paragraph (a) of § 403.503) no such additional deduction will be made on account of the rendition of such services by the wage earner.

The amount of an additional deduction required hereunder and the manner in which it is effected are the same as provided for deductions under section 203 (d) or (e) of the act on account of the event which such individual failed to report.

Example: H is entitled to receive a primary insurance benefit of $25 for each month, and W, his wife, is entitled to a wife's insurance benefit of $12.50. H renders services for wages of not less than $15 in each of 2 months. If either H or W reported this fact to the Administration, within the time stated in this section, the deduction from H's benefits would be $50, and the deduction from W's benefits would be $25. If neither H nor W reported to the Administration as required, the deduction would be $100 from his benefit and $50 from W's benefits. If, however, A were receiving the benefits on behalf of either H or W and reported to the Administration, neither H nor W would suffer the additional deduction for failure to report.

SECTION 203 (h) OF THE ACT

Deductions shall also be made from any primary insurance benefit to which an individual is entitled, or from any other insurance benefit payable with respect to such individual's wages, until such deductions total the amount of any lump sum paid to such individual under section 204 of the Social Security Act in force prior to the date of enactment of the Social Security Act Amendments of 1939.

SECTION 4 (c) OF THE ACT OF AUGUST 13, 1940 (54 STAT. 786)

Nothing contained in this act shall operate (1) to affect any annuity, pension, or death benefit granted under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, prior to the date of enactment of this act, or (2) to include any of the services on the basis of which any such annuity or pension was granted, as employment within the meaning of section 210 (b) of the Social Security Act or section 209 (b) of such act, as amended. In any case in which a death benefit alone has been granted, the amount of such death benefit attributable to services, coverage of which is affected by this act, shall be deemed to have been paid to the deceased under section 204 of the Social Security Act in effect prior to January 1, 1940, and deductions shall be made from any insurance benefit or benefits payable under the Social Security Act as amended, with respect to wages paid to an individual for such services until such deductions total the amount of such death benefit attributable to such services.

SECTION 907 OF THE SOCIAL SECURITY ACT AMENDMENTS OF 1939

In addition to any other deductions made under section 203 of the Social Security Act, as amended, deductions shall be made from any primary insurance benefit or benefits to which an individual is entitled or from any other insurance benefit payable with respect to such individual's wages, until such deductions total 1 per centum of any wages paid him for services performed in 1939, and subsequent to his attaining age sixty-five, and 1 per centum of any wages paid him for services which constitute employment by virtue of subsection (c) of section 209 of the Social Security Act, as amended, with respect to which the taxes imposed by section 1400 of the Internal Revenue Code have not been deducted by his employer from his wages or paid by such employer. (As retroactively amended by section 1 (b) (3) of the act of March 24, 1943, 57 Stat. 47.)

§ 403.505 *Deductions because of lump-sum payments under original act and*

failure to pay taxes—(a) *Basis for and amount of, deduction under section 203 (h) of the act.* Section 203 (h) of the act provides for deductions from benefits, and from lump-sum death payments under section 202 (g) of the act, where a wage earner has been paid a lump sum (hereinafter referred to as a section 204 payment) under section 204 of the Social Security Act in force prior to August 10, 1939 (the date of enactment of the Social Security Act Amendments of 1939) The total to be deducted is an amount equal to the amount of the section 204 payment.

In any case in which a death benefit alone has been granted under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, upon the basis of services in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard rail locomotives) of coal not beyond the tipple, or the loading of coal at the tipple, the amount of such benefit attributable to such services shall be deemed to have been paid to the deceased as a section 204 payment, and deductions shall be made in accordance with § 403.505 (c) from any insurance benefit or benefits payable under title II of the Act with respect to wages paid to an individual for such services until such deductions total the amount of such death benefit attributable to such services.

(b) *Basis for and amount of, deduction under section 907 of the Social Security Act Amendments of 1939.* Section 907 of the Social Security Act Amendments of 1939 provides for deductions from benefits and lump-sum death payments in cases where the taxes imposed by section 1400 of the Internal Revenue Code with respect to a wage earner's employment in 1939 and subsequent to his attaining age 65, or with respect to services which constitute employment by virtue of section 209 (o) of the act, as amended (see § 403.803 (d)) have neither been deducted by his employer from the wages paid him for services in such employment nor paid by such employer. The total amount to be deducted is an amount equal to 1 per centum of such wages with respect to which taxes have neither been deducted nor paid by the employer.

Example: H, aged 66, was paid wages of $3,000 in the first 3 months of 1939. His employer did not deduct from his wages the taxes imposed by section 1400 of the Internal Revenue Code and did not pay the amount of such taxes to the Bureau of Internal Revenue. A deduction equal to 1 per centum of $3,000, or $30, is required under paragraph (b) of this section. (The same amount would have to be thus deducted if H had been paid such wages in 1942 with respect to services which constituted employment by virtue of section 209 (o) as later added to the act.) Therefore, in either case, if H later becomes entitled to a primary insurance benefit of $42 for each month, $30 will be withheld from his benefit for 1 month, so that he will receive $12 for such month. No deduction would have been made from benefits if H's employer had paid the tax himself (even though he did not deduct it from H's wages), or if the employer had deducted the tax (even though he did not pay it to the Bureau of Internal Revenue). If H had been paid a section 204 payment, the amount of such payment would also have to be withheld from his benefits, under paragraph (a) of this section.

(c) *Manner of making deductions.* A deduction under paragraph (a) or (b) of this section, as the case may be, is made by withholding the amount designated in such paragraph from (1) any primary insurance benefits to which the wage earner who is described under such paragraph is or becomes entitled and (2) any benefits or lump sum to which any other person is or becomes entitled with respect to the wages of such wage earner. Upon determination that a deduction is required, no such benefit for any month and no such lump sum will be paid until a total amount equal to the amount to be deducted has been withheld. If the amount of the required deduction is less than the total of (1) any such benefit or benefits for a month and (2) any such lump sum then payable, the amount to be deducted will be withheld from such total.

If more than one person is entitled to any such benefits, or to any such lump sum, the deduction is made from the benefits, or from the share of the lump sum, to which each such person is entitled, in the proportion that his benefit or benefits for a month, or his share of the lump sum, bears to the total of such benefits for a month, or the total of such lump sum.

Example 1: H received a section 204 payment of $150. Thereafter he became entitled to a primary insurance benefit of $30 for each month. His wife, W, at the same time, became entitled to a wife's insurance benefit of $15, but since she was also entitled to a primary insurance benefit of $10 on the basis of her own wages, her wife's insurance benefit was reduced to $5 for each month, under section 202 (b) of the act. (See § 403.403 (c).)

A deduction of $150, the amount of the section 204 payment, is required under paragraph (a) of this section. In order to effect the deduction, the primary insurance benefit of $30 and the wife's insurance benefit of $5 are withheld in their entirety for 4 months. In the fifth month, there being a balance of $10 to be deducted, the wife's benefit is reduced by 5/35 of $10, leaving $3.57, and the husband's primary insurance benefit is reduced by 30/35 of $10, leaving $21.43. If before the required deductions had been completed, either H or W had become entitled to a lump sum on the basis of another individual's wages, such lump sum would not be affected by the deduction.

Example 2: H, who had attained the age of 65 prior to 1939, worked during the first 3 months of 1939 for an employer who did not deduct from H's wages and did not pay over to the Bureau of Internal Revenue the taxes imposed by section 1400 of the Internal Revenue Code. Thereafter H became entitled to receive a primary insurance benefit of $25.50, and W, his wife, became entitled to receive a wife's insurance benefit of $12.75. The amount of H's wages from which no tax was deducted was $300. Therefore, a deduction of $3 (1 per centum of $300) is required under section 907 of the Social Security Act Amendments of 1939.

In order to effect the deduction of $3, H's primary insurance benefit for the first month is reduced by 2/3 of $3, giving him a benefit of $23.50, and W's benefit is reduced by 1/3 of $3, giving her a benefit of $11.75. No payment to which H or W might become entitled based upon another individual's wages (including any primary insurance benefit to which W might become entitled) would be subject to any deduction under this section.

(d) *Relation to other provisions.* Amounts to be deducted hereunder are measured by and are withheld from amounts of benefits as reduced or increased under section 203 (a) or (b) of the act, as set forth in § 403.503 (f)

Example: H received a section 204 payment of $160. Thereafter he became entitled to a primary insurance benefit of $40. His wife, W, became entitled to a wife's insurance benefit of $20, and each of his two children became entitled to a child's insurance benefit of $20. Under section 203 (a) of the act the wife's insurance benefit and each of the child's insurance benefits would be reduced to $13.33, making a total of $80 of benefits based on H's wages.

In order to effect the deduction of $160, the benefits as reduced are withheld from the individual, his wife, and his children for 2 months, since the amount withheld for each month is the amount to which their benefits were reduced, i. e., $80 per month, not $160 per month.

A deduction required under section 203 (h) of the act is made in addition to any deductions required under section 907 of the Social Security Act Amendments of 1939 and section 203 (d) or (e) of the act (see § 403.503) and in addition to any adjustment under section 204 (a) of the act (see § 403.601) (See example under paragraph (g) of § 403.503.)

SUBPART F—OVERPAYMENTS AND UNDERPAYMENTS

SECTION 204 (a) OF THE ACT

Whenever an error has been made with respect to payments to an individual under this title (including payments made prior to January 1, 1940), proper adjustment shall be made, under regulations prescribed by the Board, by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequent benefits payable with respect to the wages which were the basis of benefits of such deceased individual.

§ 403.601 *Overpayments and underpayments.* Subsection (a) of section 204 of the act provides for adjustments, as set forth in paragraphs (a) and (b) of this section, in cases where an error has been made which results in an overpayment or underpayment to an individual under Title II of the act, including overpayments and underpayments prior to January 1, 1940. The provisions for adjustments also apply in cases where, through error, a reduction or increase required under section 203 (a) or (b) of the act, or a deduction under section 203 (d) (e) or (h) of the act or under section 907 of the Social Security Act Amendments of 1939, is not made, and where such a reduction, increase, or deduction is made which is either larger or smaller than required (see §§ 403.502 to 403.505) The term "overpayment" as used herein, includes a payment where nothing was payable under Title II of the act. The term "underpayment" as used herein, includes nonpayment where some amount was payable under that title.

(a) *Overpayments.* Upon determination that an overpayment has been made, adjustments will be made against benefits and lump sums as follows:

(1) If the person to whom an overpayment was made is, at the time of the discovery of such overpayment, entitled to benefits or to a lump sum, or at any time thereafter becomes so entitled, no benefit for any month and no lump sum will be paid to such person until a total amount equal to the amount of the overpayment has been withheld. If the amount of any overpayment with respect to which adjustment has not been made is less than the total of (i) any such benefit or benefits for a month and (ii) any such lump sum then payable, the amount of such unadjusted overpayment will be withheld from such total.

Example 1. A is entitled to a primary insurance benefit of $30 a month. He has received checks of $40 a month for 5 months, making a total overpayment of $50. No benefits will be payable to A for 1 month following the discovery of the overpayment, and the benefit for the next month will be decreased to $10. If before such overpayment has been completely adjusted, A should become entitled to a lump sum on the basis of the wages of B, such lump sum would also be withheld in whole or in part, depending upon the amount remaining to be adjusted.

Such adjustments will be made against any benefits or lump sum to which such person is or may become entitled regardless of whether such benefits or lump sum are based on his wages or the wages of another individual.

Example 2: C is entitled to a child's insurance benefit of $10 based on the wages of X. C has received checks of $20 per month for 4 months, making a total overpayment of $40. No benefits will be payable to C for 4 months following the discovery of the overpayment. If, however, after benefits have been withheld for 2 months, C becomes entitled to a child's insurance benefit of $20 based on the wages of Y, the child's insurance benefit based on the wages of Y would be withheld for 1 month, and the required adjustment of $40 would thereby be completed.

(2) If an individual to whom an overpayment was made dies before adjustment is completed under subparagraph (1) of this paragraph, adjustment will be made, in the manner provided under subparagraph (1) of this paragraph, against any benefits or any lump sum payable with respect to the wages which were the basis of payments to such deceased individual prior to his death. Where more than one person is entitled to benefits or to a lump sum with respect to such wages, adjustment will be made against the amount payable to each of such persons in the proportion that his benefit or benefits for a month or his share of the lump sum, based on such wages, bears to the total of such benefits payable for a month or the total of such lump sum.

Example: H was entitled to a primary insurance benefit of $20. He received checks of $30 per month until his death, when the total amount of overpayment to him was $90. H left surviving a widow, W, entitled to a widow's insurance benefit of $15 a month, and a child, C, entitled to a child's insurance benefit of $10 a month. Both the widow's insurance benefit and the child's insurance benefit will be withheld in their entirety for 3 months, thereby effecting an adjustment of $75. For the remaining $15 of the adjustment, an amount equal to 1½5 of $15, or $9, will be withheld from W's benefit of $15, and an amount equal to 1½5 of $15, or $6, will be withheld from C's benefit of $10. Thus the amount of W's benefit paid for the fourth month will be $6, and the amount of C's benefit paid for such month will be $4. Thereafter they will receive their regular insurance benefits for each month without the decrease.

If, before the adjustment had been completed, W became entitled to receive a primary insurance benefit on the basis of her own wages, such primary insurance benefit would not be withheld, since benefits based on W's wages are not subject to adjustment on account of the overpayment to H.

(b) *Underpayments.* Underpayments will be adjusted as follows:

(1) If a person to whom an underpayment was made is living, the amount of such underpayment will be paid to such person either in a single payment (if he is not entitled to a benefit or lump sum) or by increasing one or more benefits or lump sum to which such person is or becomes entitled.

(2) If an individual to whom an underpayment was made dies before adjustment is completed under subparagraph (1) of this paragraph, the amount of such underpayment will be paid to any persons entitled to benefits or to a lump sum with respect to the wages which were the basis of payments to such deceased individual prior to his death, except as provided in subparagraph (3) of this paragraph. Where more than one person is entitled to benefits or a lump sum with respect to such wages and adjustment is required hereunder, the amount of the underpayment will be divided among such persons in the proportion that their respective benefits for a month or their share of the lump sum, based on such wages, bear to the total of such benefits payable for a month or the total of such lump sum.

Example: H, who had been entitled to a primary insurance benefit of $40 a month, died after receiving checks of $20 a month for 5 months. At the time of his death the underpayment amounted to $100. He left surviving W, a widow, entitled to a widow's insurance benefit of $30, and C, a child's insurance benefit of $20. The underpayment of $100 will be adjusted by a proportionate increase of the widow's insurance benefit and the child's insurance benefit. Ordinarily, the total amount would be adjusted in 1 month, so that W's benefit for 1 month will be increased by 3⁰⁄₅₀ of $100 ($60) and C's benefit for 1 month will be increased by 2⁰⁄₅₀ of $100 ($40).

(3) No amount will be paid under the provisions of subparagraph (2) of this paragraph to a person to whom a lump sum is payable as one equitably entitled within the meaning of § 403.408 (b) (2) in excess of the amount of burial expenses of the deceased individual paid by such person.

(c) *Relation to provisions for reductions and increases.* The amount of an overpayment or underpayment of a benefit is the difference between the amount paid to the beneficiary and the amount of such benefit as reduced or increased (if required) under section 203 (a) or (b) of the act (see § 403.502) Likewise, in effecting an adjustment with respect to an overpayment, no amount can be considered as having been withheld from a particular benefit, which is in excess of the amount of such benefit as so decreased.

Example: H was entitled to a primary insurance benefit of $20. He had been receiving checks of $30, and at the time of his death the total amount of the overpayment to him was $80. H left surviving a widow, entitled to a widow's current insurance benefit of $15, and three children each entitled to a child's insurance benefit of $10. The total of these benefits ($45) must be reduced pursuant to section 203 (a) of the act to $40 (twice the primary insurance benefit). Thus the widow would be entitled to receive $13.33, and each of the children would be entitled to receive $8.89.

In order to effect the required adjustment against the benefits of the widow and the children, such benefits are withheld in their entirety for 2 months, thus completing the required adjustment of $80. The amount withheld each month is the amount of such benefits as reduced pursuant to section 203 (a) of the act, i. e., $40, not $45.

If an overpayment were made to the widow (or to a child), the amount of the overpayment would be the difference between the amount actually paid and the amount of the benefit of the widow (for the child) as reduced under section 203 (a) of the act.

(d) *Relation to other provisions.* Adjustments under this section are made in addition to any deductions which may be required under section 203 of the act or under section 907 of the Social Security Act Amendments of 1939. (See §§ 403.503 to 403.505.)

Example: A is entitled to receive a primary insurance benefit of $10 but had been receiving checks of $15. At the time of the discovery of the error the total overpayment amounts to $10. Thereafter adjustment of the overpayment is begun by withholding benefits. If A should earn wages of $15 or more for 2 months, the number of months for which benefits will be withheld is 3; i. e., 1 month for the overpayment and 2 months because of the deduction pursuant to section 203 (d) of the act.

SECTION 204 (b) OF THE ACT

There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault (including payments made prior to January 1, 1940), and where adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

§ 403.602 *Waiver of adjustment or recovery.* Section 204 (b) of the act provides that there shall be no adjustment or recovery (by legal action or otherwise) by the United States in the case of an incorrect payment to an individual (including payments made prior to January 1, 1940), if the following conditions exist:

(a) Such individual is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of Title II of the act, or

(2) Be against equity and good conscience.

SECTION 204 (c) OF THE ACT

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.

§ 403.603 *Liability of certifying officer* Section 204 (c) of the act provides that no certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person:

(a) Where the adjustment or recovery of such amount is waived under section 204 (b) of the act (see § 403.602) or

(b) Where adjustment under section 204 (a) of the act (see § 403.601) is not completed prior to the death of all persons against whose benefits or lump sums deductions are authorized.

SUBPART G—PROCEDURES

SECTION 205 (a) OF THE ACT

The Board shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

SECTION 205 (m) OF THE ACT

No application for any benefit under this title filed prior to three months before the first month for which the applicant becomes entitled to receive such benefit shall be accepted as an application for the purposes of this title.

SECTION 202 (h) OF THE ACT

An individual who would have been entitled to a benefit under subsection (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end of the third month immediately succeeding such month.

SECTION 202 (g) OF THE ACT

* * * No payment [of any lump sum] shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such [fully or currently insured] individual.

SECTION 5 OF THE ACT APPROVED AUGUST 13, 1940 (54 STAT. 785)

Any application for payment filed with the Railroad Retirement Board prior to, or within sixty days after, the enactment of this act shall, under such regulations as the Social Security Board may prescribe, be deemed to be an application filed with the Social Security Board by such individual or by any person claiming any payment with respect to the wages of such individual, under any provision of section 202 of the Social Security Act, as amended.

SECTIONS 101, 104, 205, 601 AND 604 OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 (54 STAT. 1178)

SEC. 101. *Definitions.* (1) The term "persons in military service" and the term "persons in the military service of the United States," as used in this act, shall include the following persons and no others: All members of the Army of the United States, the United States Navy, the Marine Corps, the Coast Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy. * * *

(2) The term "period of military service," as used in this act, shall include the time between the following dates: For persons in active service at the date of the approval of this act it shall begin with the date of approval of this act; for persons entering active service after the date of this act, with the date of entering active service. It shall terminate with the date of discharge from active service or death while in active service, but in no case later than the date when this act ceases to be in force.

* * * * *

SEC. 104. *Extension of benefits to citizens serving with forces of war allies.* Persons who serve with the forces of any nation with which the United States may be allied in the prosecution of any war in which the United States engages while this act remains in force and who immediately prior to such service were citizens of the United States shall, except in those cases provided for in section 512, be entitled to the relief and benefits afforded by this act if such service is similar to military service as defined in this act, unless they are dishonorably discharged therefrom, or it appears that they do not intend to resume United States citizenship.

* * * * * *

SEC. 205. *Statutes of limitations as affected by period of service.*—The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department or other agency of government by or against any person in military service or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period of such service. * * *

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SEC. 601. *Certificates of service; persons reported missing.* * * *

(3) Where a person in military service has been reported missing he shall be presumed to continue in the service until accounted for, and no period herein limited which begins or ends with the death of such person shall begin or end until the death of such person is in fact reported to or found by the Department of War or Navy, or any court or board thereof, or until such death is found by a court of competent jurisdiction: *Provided*, That no period herein limited which begins or ends with the death of such person shall be extended hereby beyond a period of six months after the time when this Act ceases to be in force.

* * * * * *

SEC. 604. *Termination of Act.* This Act shall remain in force until May 15, 1945: *Provided*, That should the United States be then engaged in a war, this Act shall remain in force until such war is terminated by a treaty of peace proclaimed by the President and for six months thereafter: *Provided further*, That wherever under any section or provision of this Act a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed prior to the date herein fixed for the termination of this Act, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.

§ 403.701 *Filing of applications and other forms*—(a) *Prescribed application forms.* Applications for benefits and lump sums shall be made as provided in these regulations. Application shall be made on such forms and in accordance with such instructions (printed thereon or attached thereto) as are prescribed by the Commissioner. The prescribed forms may be obtained from any office of the Bureau.

(b) *Execution of applications.* Applications for benefits and lump sums shall be signed by the person described in paragraph (c) of this section.

(c) *Persons who may execute applications.* Applications for benefits and lump sums shall be executed by the person designated under subparagraphs (1) (2) (3) or (4) of this paragraph according to the conditions stated:

(1) If the applicant has attained the age of 18 and is mentally competent, the application shall be executed by him.

(2) If, however, the applicant (regardless of his age) has a legally appointed guardian, committee, or other legal representative, the application shall be executed by such guardian, committee, or representative.

(3) If the applicant has attained the age of 16, is mentally competent, has no guardian, committee, or other legal representative, and is not in the care of any person, such applicant may execute the application upon filing a statement on the prescribed form, indicating capacity to act on his own behalf.

(4) If the applicant has no guardian, committee, or other legal representative, the application shall be executed by the person who has such applicant in his care if:

(i) He is mentally incompetent (regardless of his age) or

(ii) He is mentally competent but has not attained the age of 18.

If the person having the care of the applicant is an institution, the application may be executed by the manager or principal officer of such institution. For good cause shown the Administration may accept applications executed by persons other than those described above.

(d) *Evidence of authority to execute an application on behalf of another.* Where the application for benefits or a lump sum is executed by a person other than the applicant, such person shall, at the time of filing the application or within a reasonable time thereafter, file evidence of his authority to execute the application on behalf of such applicant. If the person executing the application is the legally appointed guardian, committee, or other legal representative of such applicant, the evidence should be a certificate executed by the proper official of the court of appointment. If the person executing the application is not such a legal representative, the evidence shall be a statement describing his relationship to the applicant and, except where the application is executed by a parent on behalf of a child with whom he is living, the extent to which he has the care of such applicant, or his position as an officer of the institution of which such individual is an inmate. The Administration may, at any time, require additional evidence to establish the authority of any such person.

(e) *Place of filing applications.* Applications for benefits and lump sum shall be filed (in person, by mail, or otherwise) at an office of the Bureau, or with an employee of the Administration who has been duly authorized to receive such applications at a place other than such an office.

(f) *Time of filing applications for benefits.* An application for benefits will

be accepted as an application for the purpose of this title if it is filed not more than three months prior to the first month for which the applicant could become entitled to such benefits. An application filed at any time after the first month for which the applicant could have been entitled to benefits will be accepted as an application for benefits for the purposes of this title, beginning with any of the three months immediately preceding the month in which it is filed, except that an application for primary insurance benefits will not be accepted as an application for the purposes of this title, for any month preceding the month in which it is filed.

Except as otherwise provided herein, an application is considered to have been filed as of the date the application is received at an office of the Bureau or by an employee of the Administration authorized to receive it. An application shall be considered to have been received:

(1) Effective April 1, 1943, if the application is deposited in and transmitted by United States mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of benefit rights, as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing.

(2) If an applicant expressed to a representative of the Bureau an intention to file a claim and his failure to file a formal application at that time is detrimental to his benefit rights, and resulted from the failure of such Bureau representative properly to advise or inform him concerning the requirements of the act or Administration's regulations thereunder as applied to the facts furnished by the applicant, or resulted from the action of such Bureau representative in informing him that an existing ruling precluded entitlement and subsequently such ruling was reversed, as of the date the applicant first expressed his intention to file, provided a formal application is filed and the applicant consents to such date as the date of receipt.

If the application is for primary insurance benefits or for recomputation of such benefits and if it is received not more than three months before the first month for which the applicant becomes entitled, the application shall be deemed to have been filed as of whichever date within three months after the month of receipt will result in entitlement to the greatest primary insurance benefits. An application for benefits beginning with a month other than the month in which the application is filed shall for the purpose of determining whether the conditions of eligibility have been satisfied, be deemed to have been filed in such other month.

Example 1. H is entitled to primary insurance benefits. W, his wife, will be 65 in May 1940, which is the first month for which she could, upon filing application, become entitled to wife's insurance benefits. If she files her application prior to February, it will be of no force and effect because filed more than three months prior to the first month for which she could become entitled.

If W is living with H in February and files her application in that month, but is not living with H in May, she will not become entitled to benefits in May. Her application will be deemed to have been filed in May for the purpose of determining whether she has met the conditions of entitlement. If W was not living with H in May she has failed to meet a condition of entitlement. See § 403.403.)

Example 2: H is entitled to primary insurance benefits. W, his wife, will be 65 in May 1940. If she files her application in June, July, or August, she may become entitled to wife's insurance benefits beginning with May, but if she files in September, June is the first month for which she could become entitled.

If W is living with H in May, she will be entitled to benefits beginning with that month if she files application in June, July, or August, even though she is not living with H in the month in which she files. Her application will be deemed to have been filed in May for the purpose of determining whether she has met the conditions of entitlement. Likewise, if she is living with H in June she will be entitled to benefits beginning with that month if she files application in July, August, or September, even though she is not living with him in the month in which she files.

Example 3: A mails an application for primary insurance benefits which is postmarked June 29, and is received at an office of the Bureau on July 1. If July 1 were fixed as the filing date the amount of A's benefit would be decreased from $28.55 to $27.80. The filing date is, therefore, considered to be June 29. Whether or not A worked for wages of more than $14.99 in June and whether his benefit would thus be subject to a deduction (see § 403.503 (a)) is immaterial, since in either event he would lose a month's benefit if July 1 were considered as the filing date.

Example 4: A's application for primary insurance benefits is received by the Bureau on March 3, 1945. He states he has worked for wages of more than $14.99 in March 1945. His primary insurance benefit computed as of March 1945 is $32.72. If April 1, 1945, is considered the filing date, the primary insurance benefit will amount to $33.48. Since the wage earner cannot become eligible for a March benefit (see § 403.503 (a)), his application will be considered to have been filed as of April 1, 1945. If the wage earner had not worked for wages of $14.99 in March, his application would have been considered filed as of March 3, 1945, so that he might obtain a benefit for March. If the wage earner also files an application for recomputation of benefits before April 1, 1945, this application will be considered to have been filed as of April 1, 1945, so that he may obtain the larger benefit for April and all succeeding months.

(g) *Time of filing applications for lump sums.* An application for a lump sum must, except as otherwise provided in paragraph (j) of this section, be filed within 2 years after date of the death of the individual upon the basis of whose wages such lump sum is claimed (see § 403.408 (a) (3))

(h) *Execution and filing of requests and notices.* Except as otherwise provided in the regulations in this part, any request for a determination or decision relating to a person's right to benefits or a lump sum, or relating to the revision of wage records, or any notice, provided for by the regulations, shall be in writing and shall be signed by the person authorized to execute an application under paragraph (c) of this section. Such requests and notices shall be filed at an office of the Bureau or with an employee of the Administration who is authorized to receive them:

(i) *Applications filed with the Railroad Retirement Board on or before October 12, 1940.* Notwithstanding any other provision of these regulations or of the Act restricting the acceptability of an application filed prior to three months before the first month for which an individual could become entitled to a benefit, or any provision of these regulations restricting the place for filing an application, any application which was filed with the Railroad Retirement Board on or before October 12, 1940, for any annuity, pension, or benefit under the Railroad Retirement Act of 1935 or under the Railroad Retirement Act of 1937, which application is based in whole or in part on wages received for services in employment under the act, shall as of the date on which such application was filed with the Railroad Retirement Board, be deemed to be an acceptable application filed with the Social Security Administration for any benefits payable to any individual who could have become entitled to a benefit with respect to such wages prior to the month of February 1941.

(j) *Extensions of filing periods by Soldiers' and Sailors' Civil Relief Act of 1940.* Pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940, in computing the periods allowed for the filing of an application for lump-sum death payment under section 202 (g) (see § 403.408) filing of proof of parent's dependency and support under section 202 (f) (see § 403.407), filing of a request for revision of wage record under section 205 (c) (see § 403.706), filing of a request for reconsideration (see § 403.708), filing of a request for a hearing (see § 403.709), and filing of a request for a review (see § 403.710) by a person in military service or by a surviving civilian relative of such person in military service meeting the test of wife, widow, child, or parent under section 209 (m) (or, in the case of lump-sum death payments, the test of relatives designated by section 202 (g)) of the Social Security Act, there shall not be included that portion of the period of his military service (as defined in the Soldiers' and Sailors' Civil Relief Act of 1940) falling within the period so to be computed. The period of military service commences with the effective date of the act (October 17, 1940) or the date of his entrance into active military service (whichever is later) and ends upon (1) the date the act ceases to be in force or the date of his death or discharge from service (whichever is earlier) or (2) if he was reported missing and is subsequently found (actually or presumptively) to have died, then (i) the date such death is reported to or found by the proper service department, or (ii) the date such finding is made by a court of competent jurisdiction, or (iii) six months after the act ceases to be in force (whichever date is earliest) For the purposes of this section, the Soldiers' and Sailors' Civil Relief Act will cease to be in force six months after the termination of World War II by a treaty of peace proclaimed by the President.

The term, person in military service, as used in these regulations shall include, in addition to members of the Army of the United States, the United States

Navy, the Marine Corps, the Coast Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy, persons serving in the armed forces of nations allied with the United States who immediately preceding such service were citizens of the United States, unless they are dishonorably discharged or it appears that they do not intend to resume United States citizenship.

§ 403.702 *Supporting evidence as to right to receive benefits and lump sums.* An applicant for benefits or a lump sum shall submit such evidence of eligibility as is specified in this section. The Administration may, at any time, require additional evidence with regard to an individual's entitlement or with regard to the amount to be paid.

The Administration may at any time require any individual, receiving, or claiming that he is entitled to receive, a benefit under Title II of the act, either for himself or on behalf of another, to submit a written statement in the prescribed manner, certifying that no event has occurred which would cause such benefit to be terminated, or which would subject such benefit to deductions under the provisions of such title. The failure on the part of such individual to submit such statement properly executed, to the Administration shall cause the suspension of such benefit.

Evidence in support of an application shall be filed at an office of the Bureau or with an employee of the Administration authorized to receive such evidence. Such evidence may be submitted as part of the application form, if the form provides for its inclusion, or it may be submitted in addition to such form and in the manner indicated by these regulations.

(a) *Evidence as to wages.* The amounts of wages paid an individual, and the time of payment, will be evidenced by the wage records of the Administration and such other evidence as is of probative value. After the fourth year following the year in which wages were paid or are alleged to have been paid, however, the wage records maintained by the Administration shall be final and conclusive as to the amounts of wages paid to an individual and as to the time of such payment, except as provided in § 403.703. An applicant for benefits or a lump sum need not submit evidence as to wages unless requested to do so by the Administration.

Amounts or remuneration paid an individual for wartime maritime services constituting employment in the employ of the United States (see § 403.827 (c) and the periods in which and for which such remuneration was paid, will be conclusively evidenced by the determinations of the Administrator, War Shipping Administration, or his designated agents, or entries in the wage records of the Social Security Administration based upon such determinations. Whether any portion of such remuneration will be excluded from wages will be determined by application of § 403.828.

(b) *Evidence as to age.* Except when the Administration, on the basis of information in its records, is satisfied that the date of birth stated in the application is substantially correct, an applicant for benefits shall file supporting evidence showing the date of his birth, if his age is a condition of entitlement. Such evidence may also be required by the Administration as to the age of any other individual when such other individual's age is relevant to the determination of the applicant's entitlement. In determining the weight to be given to evidence offered to prove age, except as provided in paragraph (j) of this section, consideration will be given to its general probative value and to its position in the following enumeration:

(1) Public records of birth;
(2) Church records of birth or baptism;
(3) Census Bureau notification of registration of birth;
(4) Hospital birth record or certificate;
(5) Flyttningsbetyg and similar foreign records;
(6) Physician's or midwife's birth record;
(7) Certification, on approved form, of Bible or other family record;
(8) Naturalization records;
(9) Immigration papers;
(10) Military records;
(11) Passports;
(12) School records;
(13) Vaccination records;
(14) Insurance policy;
(15) Labor union or fraternal records;
(16) Marriage records; or
(17) Other evidence of probative value.

Proof of any record, except a Bible or other family record, may consist of a copy of such record or a statement as to the date of birth shown by such record, duly certified by the custodian of such record or by an individual designated by the Administration. If the evidence submitted is not convincing, additional evidence will be requested, preferably of a type higher on the foregoing list.

(c) *Evidence as to death.* An applicant for benefits or a lump sum based upon the wages of a deceased individual shall file supporting evidence as to the death of such individual and as to the time and place of such death. Such evidence may also be required by the Administration as to the death of any other individual when such other individual's death is relevant to the determination of the applicant's entitlement. Such evidence shall be of the following character:

(1) A certified copy of the public record of death, coroner's report of death, or verdict of the coroner's jury of the State or community where death occurred, or a certificate by the custodian of the public record of death or a statement of the contents of the record of death certified by an individual designated by the Administration, or

(2) A statement of the funeral director, attending physician, or of the superintendent, physician, or interne of the institution where the death occurred; or

(3) A certified copy of an official report or finding of death, made by any agency or department of the United States which is authorized or requested to make such report or finding in the administration of any law of the United States, or a statement of the contents of such report or finding certified by an individual designated by the Administration: *Provided, however* That a finding of presumptive death made pursuant to section 5 of Public Law 490, 77th Congress, as amended, (50 U. S. C. A. App. § 1005) shall be accepted only as evidence of the fact of death and not of the date of death.

If none of the evidence described in subparagraphs (1) (2) and (3) of this paragraph is obtainable, the reason therefor should be stated and the applicant may submit:

(4) The signed statements of two or more persons, having personal knowledge of the death, setting forth the facts and circumstances as to the place, date and cause of death; or

(5) Other evidence of probative value.

If death occurs outside the United States there must be furnished a report of the death by a United States consul, or other agent of the State Department, bearing the signature and official seal of such consul or agent, or a certified copy of the public record of death authenticated by the United States consul or other agent of the State Department, or other evidence of probative value.

Whenever it is necessary to determine the death of an individual other than the wage earner, in order to determine the right of another to a benefit under sec. 202 (f) or a lump sum under section 202 (g) of the act, and such individual has been unexplainedly absent from his residence and unheard of for a period of 7 years, the Administration, upon satisfactory establishment of such facts, will presume that such individual has died, in the absence of any substantial evidence to the contrary.

(d) *Evidence as to marriage.* Except as provided in paragraph (j) of this section, a wife or widow who applies for benefits (see paragraph (k) of this section as to applications for lump sums) upon the basis of the wages of her husband or deceased husband shall file supporting evidence as specified below as to her marriage to such individual, and as to the time and place of marriage. Evidence of marriage may also be required by the Administration as to the marriage of any other individual when such a marriage is relevant to the determination of an applicant's entitlement.

(1) *Ceremonial marriage.* Except as may be otherwise expressly required by the Administration in connection with an application, no supporting evidence as to marriage need be filed when the application is for wife's insurance benefits (see § 403.403) and states that the applicant was ceremonially married to the individual who has applied for primary insurance benefits on the basis of the same wages and such individual signs her statement. When a marriage has thus been established upon an application for wife's insurance benefits, such evidence, except as may be otherwise expressly required by the Administration, will be accepted as proof of such marriage upon a subsequent application by the same person for a widow's insurance benefits (see § 403.405)

In all other cases, evidence as to a ceremonial marriage shall be of the following character:

(i) A copy of the public record of marriage or a statement as to the marriage, duly certified by the custodian of such record or by an individual designated by the Administration; or

(ii) A copy of the church record of marriage or a statement as to such marriage, duly certified by the custodian of such record or an individual designated by the Administration; or

(iii) The original certificate of marriage.

If none of the evidence described in subdivisions (i) (ii) and (iii) of this subparagraph is obtainable, the reason therefor should be stated and the applicant may submit:

(iv) The signed statement of the clergyman or official who performed the marriage ceremony; or

(v) Other evidence of probative value.

(2) *Common-law marriage.* Evidence as to a common-law marriage shall be such as to disclose the facts upon which the informant bases his belief as to the existence of such marriage, such as the maintenance of a common place of abode in which the alleged spouses lived together, a present agreement of marriage, and any representations made by the parties as to their marital status. Such evidence shall be as follows:

(i) If the husband and wife are living, such evidence shall be in the form of signed statements of the husband and wife and two of their blood relatives. The signed statement of another individual may be substituted for the statement of each such relative which is not obtainable.

(ii) If either the husband or wife is deceased, such evidence shall be in the form of signed statements of the surviving spouse and of two blood relatives of the deceased spouse. The signed statement of another individual may be substituted for the statement of any such relative, upon written showing that such relative's statement is not reasonably obtainable.

(iii) If both the husband and wife are deceased, such evidence shall be in the form of signed statements of one blood relative of each deceased spouse. The signed statement of another individual may be substituted for the statement of any such relative, upon written showing that such relative's statement is not reasonably obtainable.

The corroborative statements by relatives or other individuals described in subdivisions (i) and (ii) of this subparagraph may in the discretion of the Administration be omitted where the parties entered into a formal marriage ceremony which was void because of a legal impediment then existing to the marriage, and where the impediment was removed and thereafter they continued to live together as man and wife until the application was filed or until the death of one of them, if under applicable State law a valid common-law marriage could come into existence as a result of continued cohabitation as man and wife or a subsequent agreement of marriage, or both.

(3) *Termination of prior marriage.* Where the validity of an alleged marriage depends upon the termination of a former marriage the applicant shall, when so requested by the Administration submit:

(i) A certified copy of the decree dissolving such former marriage; or

(ii) Evidence of the death of a party to such marriage, as described in paragraph (c) of this section (and in the order of priority therein described) or

(iii) Other evidence of probative value.

(e) *Evidence as to relationship of parent and child—*(1) *Child's application.* Except as provided in paragraph (j) of this section, an applicant for child's insurance benefits shall file the following supporting evidence of his relationship to the parent upon the basis of whose wages benefits are claimed (see paragraph (k) of this section as to applications for lump sums)

(i) If the relationship is by blood, the evidence described in paragraph (b) of this section should be submitted (in the order of priority therein provided) showing the relationship between the parent and child in question: *Provided,* That a birth record which shows the name of the child but does not give the names of the parents and their relationship to the child may be accepted as supporting evidence of relationship if the surname of the child shown thereon is the same as that of the wage earner at the time of the birth of the child and if none of the information available or furnished to the Administration is inconsistent with the existence of the relationship.

(ii) If the relationship is by adoption, a certified copy of the decree or order of adoption should be submitted.

(iii) If the relationship is that of stepparent and stepchild and the child is the blood child of the parent to whom such stepparent is married, the evidence described in paragraph (b) of this section should be submitted (in the order of priority therein provided) showing the relationship between the child and such blood parent: *Provided,* That a birth record which shows the name of the child but does not give the names of the parents and their relationship to the child may be accepted as supporting evidence of relationship between the child and the child's blood parent to whom the stepparent is married if the surname of the child thereon is the same as that of the blood parent at the time of the birth of the child, and if none of the information available or furnished to the Administration is inconsistent with the existence of the relationship. If the child is the adopted child of the parent to whom such stepparent is married, a certified copy of the decree or order of adoption should be submitted. Evidence should be submitted as described in paragraph (d) of this section (in the order of priority therein provided) as to the marriage of the child's blood parent (or adopting parent) and such stepparent.

(2) *Parent's application.* An applicant for parent's insurance benefits shall file evidence of his relationship to the child upon the basis of whose wages the benefits are claimed. (See paragraph (k) of this section as to applications for lump sums.) Such evidence should be of the following character:

(i) If the relationship is by blood, the signed statement of the applicant as to the existence of the relationship should be submitted.

(ii) If the relationship is by adoption, a certified copy and decree of the order of adoption should be submitted.

(iii) If the relationship is that of stepparent and stepchild, evidence of the marriage of such stepparent with a blood parent or adopting parent of the child should be submitted, as described in paragraph (d) of this section (in the order of priority therein provided) and there shall also be submitted evidence of the relationship of the child and such blood parent (or adopting parent) as provided under subdivision (i) (or (ii)) of this subparagraph.

If the evidence described in subparagraphs (1) or (2) of this paragraph, as the case may be, is not obtainable, the reason therefor should be stated and the applicant may submit other evidence of probative value.

(f) *Evidence that wife or widow was "living with" wage earner* A wife who applies for benefits based upon the wages of her husband, and a widow who applies for benefits based upon the wages of her deceased husband, shall file evidence that she was living with her husband at the time of filing her application or at the time of the husband's death (see §§ 403.403, 403.405, and 403.406) as the case may be. Such evidence should be one of the following:

(1) A signed statement by the wife and the husband, or by the widow, that the husband and wife, at the time above stated, were living together at the same place of abode, and customarily so lived together, and giving the address of such place. If the wife or widow and her husband were temporarily living apart, the signed statement by the husband and wife, or by the widow, should state the places of residence of the husband and wife, the reason for their separation, the length of time they had been separated, and the expected duration of and the reasons for the separation; or

(2) A certified copy of an order or decree of a court of competent jurisdiction directing the husband to contribute to the support of the wife or widow and a certification by the proper official of the court that such order had not been revoked or modified prior to the time in question; or

(3) A signed statement by the wife and the husband, or by the widow, that the husband was making regular contributions toward the wife's support, and describing the amount, time or times, and manner of making such contributions. If the husband is living and his statement is not obtainable, the reason therefor shall be stated and the signed statements of two other persons may be substituted for that of the husband.

If the evidence above described is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

(g) *Evidence as to dependency of a child.* A child who applies for benefits based upon the wages of an individual shall submit evidence as to his dependence upon such individual. Such evidence should be of the following character:

(1) *Father or adopting father.* If the individual upon the basis of whose wages the benefits are claimed is the father or adopting father of the child, there should be submitted a signed statement by a person having knowledge thereof, that, at the time the child's application was filed or at the time of such individual's death, as the case may be:

(i) Such individual and such child were living together, at a common place of abode, and giving the address of such place; or

(ii) Such individual was contributing to the support of the child, and describing the amount, time or times, and manner of making such contributions; or

(iii) The child at the time in question:

(*a*) Was the legitimate or adopted child of such individual; and

(*b*) Had not been adopted by another individual; and

(*c*) Either was not living with, or was not supported by, a stepfather at the time of the death of the father or adopting father. (This part of the statement is necessary only in the event that the child's application is based upon the wages of a deceased father or deceased adopting father.)

(2) *Mother adopting mother or stepparent.* If the individual upon the basis of whose wages the benefits are claimed is the mother, adopting mother, or stepparent of the child, there should be submitted a signed statement by a person having knowledge thereof, that at the time of filing the application or at the time of the individual's death, as the case may be, the child was not living with its father or adopting father and that no contributions in any medium were being made for the support of the child by such child's father or adopting father. If any contributions were being made by the father or adopting father, the time, amount, and manner of making such contributions should be stated.

If the evidence designated in subparagraphs (1) or (2) of this paragraph, as the case may be, is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

(h) *Evidence as to having the care of a child.* An applicant for widow's current insurance benefits shall file a signed statement as to whether she has in her care a child of her deceased husband upon the basis of whose wages she claims benefits. If the child is not living with the widow, her statement shall disclose the reason for the separation, the present length and expected duration thereof, and how and to what extent she cares for the child. If the child is not living with the widow, she shall also submit, upon request of the Administration, a signed statement by the individual with whom the child is living (or official of the institution where the child is living), which states the source of the child's support, and how and to what extent the widow has cared for the child.

(i) *Evidence as to the dependency of a parent.* A parent who claims to have been wholly dependent upon and supported by an individual shall, in filing proof of such dependency, submit a signed statement setting forth, as of the time of such individual's death, and for a period of not less than one year prior to such time, the amount and kind of contributions made to the parent by such individual. The statement shall also describe the tangible and intangible property owned by the parent, and, for a period of one year prior to such death, the income from such property and any other income (including contributions from other children and relatives) received by the parent, and the amount and source of such income. Proof that a parent was wholly dependent upon and supported by an individual, at the time of such individual's death, must, except as otherwise provided in § 403.701 (j), be filed within two years after the death of such individual (see § 403.407 (a) (3)).

(j) *Evidence in application for widow's current and child's insurance benefits not aggregating more than $150 or the lump sum.* When an application or applications have been filed for widow's current and/or child's insurance benefits, and it is apparent, from reference to the alleged age of the child or children for whom application is made, that the total benefits payable will not exceed (1) $150 or (2) the amount of a lump-sum death payment under section 202 (g) of the act computed on the basis of the wage record of the deceased wage earner, whichever is greater, then in lieu of the supporting evidence required in paragraphs (b) (d) and (e) of this section, as to the age, relationship (other than by adoption) and marriage (other than common-law marriage) of the applicants, a signed statement setting forth the facts submitted by (or on behalf of) the applicants as to such age, relationship, or marriage, may be accepted. For required evidence of a common-law marriage or adoption, see paragraphs (d) (2) and (e) (1) (ii) of this section.

(k) *Proof of relationship by applicants for lump sums.* If an applicant applies for a lump sum as the widow, widower, child, distributee with a child, or parent of a deceased individual, the applicant shall submit a signed statement as to the existence of such relationship to the deceased. If the applicant alleges that he or she is the widow or widower of the deceased individual by reason of a common-law marriage, evidence of such marriage shall be submitted as described in paragraph (d) (2) of this section (in the order therein provided) If the applicant alleges that he is the parent or child of the deceased individual by reason of adoption, evidence of such adoption shall be submitted in accordance with the applicable provisions of paragraph (e) of this section.

(l) *Evidence as to payment of burial expenses.* If a condition of entitlement to a lump sum is that the applicant shall have paid part or all of the burial expenses of the deceased individual upon the basis of whose wages the lump sum is claimed, the applicant shall file an itemized and receipted statement or statements of the person or persons who supplied goods or services for the burial of the deceased. Such statement or statements shall show the total cost of all goods or services furnished, the amount remaining unpaid, if any, the name of each person who paid any portion of such costs, and the amount and date of each payment. The applicant shall also submit his own signed statement as to his relationship or other connection with the deceased individual, the total amount of the burial expenses, the amount of the burial expenses paid from his own funds, the amount of burial expenses unpaid, and the amount in cash or property which he has received as reimbursement for his payment of burial expenses.

If the evidence above described is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

SECTION 205 (c) OF THE ACT

(1) On the basis of information obtained by or submitted to the Board, and after such verification thereof as it deems necessary, the Board shall establish and maintain records of the amounts of wages paid to each individual and of the periods in which such wages were paid and, upon request, shall inform any individual, or after his death shall inform the wife, child, or parent of such individual, of the amounts of wages of such individual and the periods of payments shown by such records at the time of such request. Such records shall be evidence, for the purpose of proceedings before the Board or any court, of the amounts of such wages and the periods in which they were paid, and the absence of an entry as to an individual's wages in such records for any period shall be evidence that no wages were paid such individual in such period.

(2) After the expiration of the fourth calendar year following any year in which wages were paid or are alleged to have been paid an individual, the records of the Board as to the wages of such individual for such year and the periods of payment shall be conclusive for the purposes of this title, except as hereafter provided.

(3) If, prior to the expiration of such fourth year, it is brought to the attention of the Board that any entry of such wages in such records is erroneous, or that any item of such wages has been omitted from the records, the Board may correct such entry or include such omitted item in its records, as the case may be. Written notice of any revision of any such entry, which is adverse to the interests of any individual, shall be given to such individual, in any case where such individual has previously been notified by the Board of the amount of wages and of the period of payments shown by such entry. Upon request in writing made prior to the expiration of such fourth year, or within sixty days thereafter, the Board shall afford any individual, or after his death shall afford the wife, child, or parent of such individual, reasonable notice and opportunity for hearing with respect to any entry or alleged omission of wages of such individual in such records, or any revision of any such entry. If a hearing is held, the Board shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall revise its records as may be required by such findings and decision.

(4) After the expiration of such fourth year, the Board may revise any entry or include in its records any omitted item of wages to conform its records with tax returns or portions of tax returns (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof. Notice shall be given of such revision under such conditions and to such individuals as is provided for revisions under paragraph (3) of this subsection. Upon request, notice and opportunity for hearing with respect to any

such entry, omission, or revision, shall be afforded under such conditions and to such individuals as is provided in paragraph (3) hereof, but no evidence shall be introduced at any such hearing except with respect to conformity of such records with such tax returns and such other data submitted under such title VIII or the Federal Insurance Contributions Act or under such regulations.

SECTION 209 (o) (2), (3), AND (4) OF THE ACT

(2) The Social Security Board shall not make determinations as to whether an individual has performed services which are employment by reason of paragraph 1 of this subsection, or the periods of such services, or the amounts of remuneration for such services, or the periods in which or for which such remuneration was paid, but shall accept the determination with respect thereto of the Administrator, War Shipping Administration, and such agents as he may designate, as evidenced by returns filed by such Administrator as an employer pursuant to section 1426 (l) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator, War Shipping Administration, is authorized and directed, upon written request of the Social Security Board, to make certification to it with respect to any matter determinable for the Board by the War Shipping Administrator under this subsection, which the Board finds necessary in administering this title.

(4) This subsection shall be effective as of September 30, 1941. (As retroactively added by section 1 (b) (2) of the Act of March 24, 1943, 57 Stat. 47, as amended by the Act approved April 4, 1944, 58 Stat. 188.)

§ 403.703 *Wage records*—(a) *Requests for information and for revision.* Any individual, or after his death his widow, child, or parent, upon making a written request, may obtain a statement of the amounts of wages paid such individual and the periods of payment as shown by the wage records of the Administration at the time the request for information is received. Such individual, or after his death his widow, child, or parent, may file request for the revision of such wage records as to the amounts of wages paid such individual and the periods of such payment. The request shall be in writing and shall, for the calendar quarter or quarters as to which the records are believed to be in error, set forth the amount, and time of payment of all wages alleged to have been paid, the name and address of the employer or employers who paid such wages, the nature of the services rendered, and the place or places where such services were rendered.

(b) *Evidence in support of wage-record revision.* When a request for the revision of an individual's wage record, as provided in paragraph (a) of this section, is filed prior to the expiration of the fourth year after the year in which the wages in question were paid or are alleged to have been paid, the individual requesting the revision shall submit supporting evidence of probative value as to the time of payment of such alleged wages, the amount thereof, the nature of the services for which the wages are alleged to have been paid, and the name and address of the employer or employers who paid such wages.

If the request for the revision of the Administration's wage records is filed after the expiration of such fourth year, there shall, except as provided in § 403.701 (j) be no revision of such records with respect to such wages except to conform such records to a tax return, or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act or regulations made under authority thereof.

(c) *Revision of wage records for wartime maritime services in the employ of the United States.* There shall be no revision of wage records based upon wartime maritime services constituting employment in the employ of the United States (see § 403.803 (d)) except as such revision is necessitated by a determination of the Administrator, War Shipping Administration, or his designated agents (see §§ 403.702 (a) 403.706 (a) (6) and 403.711a) or by application of § 403.823.

§ 403.704 *Abandonment and withdrawal of applications, requests for wage-record revisions, and recomputation of benefits*—(a) *Withdrawal.* An individual may withdraw his application for benefits or for a lump sum, or his request for revision of wage records of the Administration, by filing written notice of such withdrawal prior to the Bureau's determination upon such application or request. Thereafter, further action will be taken only upon the filing of a new application or request.

(b) *Abandonment.* Whenever, after the filing of an application for benefits or a lump sum or a request for wage-record revision, additional evidence or information is asked for by the Administration, by written notice mailed to the applicant at his last known address, the applicant's disregard thereof for a period of 1 year from the date of mailing shall be considered as an abandonment of such application or request. Thereafter the Administration will take further action only upon the filing of a new application or request unless it is shown that such disregard by the applicant was due to a cause or causes not reasonably within his control.

(c) *Recomputation of benefits.* After favorable determination a wage earner, upon filing application with the Administration, may have his primary insurance benefit recomputed at any subsequent time for the purpose of including wages paid to him in and after the quarter in which he became entitled. Benefits computed on the basis of the prior application shall terminate with the month before the month in which the application for recomputation is filed, and benefits as recomputed shall be payable beginning with the month in which such application or request is filed. The primary insurance benefit shall be recomputed in the same manner that such benefit would have been computed had the wage earner filed his original application on the date the application for recomputation was filed.

Example: A became entitled to primary benefits in March 1940. He returned to work in January 1941 at a substantially higher average wage than he formerly received. In January 1945 he quit work and filed a request for recomputation. Based on the additional wages he received after December 31, 1940, and prior to January 1, 1945, A's primary benefit is increased. A's entitlement on the application filed in March 1940 terminates with the month of December 1944. His entitlement on the application filed in January 1945 becomes effective in the month of filing.

Auxiliary benefits, if any, will be increased beginning January 1945 on the basis of the larger primary insurance benefit.

SECTION 205 (j) OF THE ACT

When it appears to the Board that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.

SECTION 205 (k) OF THE ACT

Any payment made after December 31, 1939, under conditions set forth in subsection (j), * * * and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Board of incompetency prior to certification of payment, if otherwise valid under this title, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

SECTION 205 (n) OF THE ACT

The Board may, in its discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals.

§ 403.705 *Persons to whom payments are made*—(a) *Payments on behalf of an individual.* When it appears to the Administration that the interest of an individual would be served thereby, the Administration may certify any amount to be paid to such individual under Title II of the act, either for direct payment to him or to another person for and on his behalf, regardless of such individual's competency or incompetency. The Administration may at any time, withhold certification of payment until a guardian, committee, or other legal representative has been appointed who is duly authorized to receive payments for and on behalf of such individual.

Before any amount will be certified for payment to any person for and on behalf of another individual, such person shall submit evidence to the Administration of his authority to receive such payment or of his relationship to, or connection with, the individual on whose behalf payment is made. The Administration may, at any time thereafter, require evidence of the continued existence of such authority, relationship, or connection. Where the person to whom payment is made is not the legally appointed guardian, conservator, or other legal representative, he shall, upon request of the Administration, account for the funds he has so received and upon failure to so account the payments to him shall be discontinued.

(b) *Joint payments to a family.* Where amounts are to be paid under Title II of the act to two or more individuals of the same family, the Administration may, in its discretion, certify the total of such amounts for joint payment to such individuals.

SECTION 205 (b) OF THE ACT

The Board is directed to make findings of fact, and decisions as to the rights of any

individual applying for a payment under this title. Whenever requested by any such individual or whenever requested by a wife, widow, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Board has rendered, it shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse its findings of fact and such decision. The Board is further authorized, on its own motion, to hold such hearings and to conduct such investigations and other proceedings as it may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, it may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Board even though inadmissible under rules of evidence applicable to court procedure.

SECTION 205 (c) OF THE ACT

(1) On the basis of information obtained by or submitted to the Board, and after such verification thereof as it deems necessary, the Board shall establish and maintain records of the amounts of wages paid to each individual and of the periods in which such wages were paid and, upon request, shall inform any individual, or after his death shall inform the wife, child, or parent of such individual, of the amount of wages of such individual and the periods of payment shown by such records at the time of such request. Such records shall be evidence, for the purpose of proceedings before the Board or any court, of the amounts of such wages and the periods in which they were paid, and the absence of an entry as to an individual's wages in such records for any period shall be evidence that no wages were paid such individual in such period.

(2) After the expiration of the fourth calendar year following any year in which wages were paid or are alleged to have been paid an individual, the records of the Board as to the wages of such individual for such year and the periods of payment shall be conclusive for the purposes of this title, except as hereafter provided.

(3) If, prior to the expiration of such fourth year, it is brought to the attention of the Board that any entry of such wages in such records is erroneous, or that any item of such wages has been omitted from the records, the Board may correct such entry or include such omitted item in its records, as the case may be. Written notice of any revision of any such entry, which is adverse to the interests of any individual, shall be given to such individual, in any case where such individual has previously been notified by the Board of the amount of wages and of the period of payments shown by such entry. Upon request in writing made prior to the expiration of such fourth year, or within sixty days thereafter, the Board shall afford any individual, or after his death shall afford the wife, child, or parent of such individual, reasonable notice and opportunity for hearing with respect to any entry or alleged omission of wages of such individual in such records, or any revision of any such entry. If a hearing is held, the Board shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall revise its records as may be required by such findings and decision.

(4) After the expiration of such fourth year, the Board may revise any entry or include in its records any omitted item of wages to conform its records with tax returns or portions of tax returns (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof. Notice shall be given of such revision under such conditions and to such individuals as is provided for revisions under paragraph (3) of this subsection. Upon request, notice and opportunity for hearing with respect to any such entry, omission, or revision, shall be afforded under such conditions and to such individuals as is provided in paragraph (3) hereof, but no evidence shall be introduced at any such hearing except with respect to conformity of such records with such tax returns and such other data submitted under such Title VIII or the Federal Insurance Contributions Act or under such regulations.

(5) Decisions of the Board under this subsection shall be reviewable by commencing a civil action in the district court of the United States as provided in subsection (g) hereof.

SECTION 209 (o) (2), (3), AND (4) OF THE ACT

(2) The Social Security Board shall not make determinations as to whether an individual has performed services which are employment by reason of paragraph 1 of this subsection, or the periods of such services, or the amounts of remuneration for such services, or the periods in which or for which such remuneration was paid, but shall accept the determination with respect thereto of the Administrator, War Shipping Administration, and such agents as he may designate, as evidenced by returns filed by such Administrator as an employer pursuant to section 1426 (i) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator, War Shipping Administration, is authorized and directed, upon written request of the Social Security Board, to make certification to it with respect to any matter determinable for the Board by the War Shipping Administrator under this subsection, which the Board finds necessary in administering this title.

(4) This subsection shall be effective as of September 30, 1941. (As retroactively added by section 1 (b) (2) of the Act of March 24, 1943, 57 Stat. 47, as amended by the Act approved April 4, 1944, 58 Stat. 188.)

§ 403.706 *Initial determination*—(a) *Determinations affecting benefits, lump sums, and wage records*—(1) *Benefits and lump sums.* The Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to the entitlement to benefits or a lump sum (see §§ 403.402–403.408) of any person (hereafter referred to as the party to the determination) who has filed an application for benefits or a lump sum. The determination shall include the amount, if any, to which the party is entitled and any reduction or increase in the benefits to be made under section 203 (a), (b), or (c) of the act (see § 403.502).

(2) *Modification in the amount of benefits or a lump sum.* The Bureau shall, under the circumstances hereafter stated, make findings, setting forth the pertinent facts and conclusions, and an initial determination:

(i) As to whether the benefits to which an individual is entitled should be reduced under sections 202 (b) (2) 202 (d) (2) or 202 (e) (2) of the act or reduced or increased under section 202 (f) (2) of the act (see paragraph (c) of §§ 403.403, 403.405, 403.406, and 403.407) and, if so, the amount thereof, because such individual, after the determination of his entitlement, becomes or ceases to be entitled to other or additional benefits as provided in the above sections; or

(ii) As to whether a reduction or increase, under section 203 (a) (b) or (c) of the act (see § 403.502) should be made in the benefits to which an individual is entitled, because of circumstances arising after the determination of such individual's entitlement to such benefits, and, if a reduction or increase is to be made, the amount thereof; or

(iii) As to whether a reduction or increase, under section 203 (a), (b) or (c) of the act (see § 403.502) which has been made in the benefits to which an individual is entitled, is no longer required because of circumstances arising after the determination that such reduction or increase should be made, and, if such reduction or increase is no longer required, the extent to which it should be modified; or

(iv) As to whether a deduction or deductions under section 203 (d) (e) (g) or (h) of the act or under section 907 of the Social Security Act Amendments of 1939 (see §§ 403.503–403.505) should be made from the benefits or lump sum to which a person is entitled, and, if so, the amount thereof; or

(v) As to whether an overpayment or an underpayment has been made, and, if so, the amount thereof, and the adjustment, under section 204 (a) of the act (see § 403.601) which is to be made by increasing or decreasing the benefits or lump sum to which a person is entitled; or

(vi) As to whether an adjustment or the recovery of an overpayment is to be waived, with respect to a person, under section 204 (b) of the act (see § 403.602)

(The individual or person designated above is hereafter referred to as the party to the determination.) Such findings of fact and determination shall be made whenever it appears to the Bureau, or whenever a party requests in writing, that, as above provided, a reduction or increase should be made or terminated, that a deduction should be made, or that an adjustment or recovery should be made or waived.

(3) *Termination of benefits.* The Bureau shall, with respect to an individual who has been determined to be entitled to benefits (hereafter referred to as the party to the determination) make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether, under the applicable provisions of section 202 of the act (see paragraph (b) of each of §§ 403.402–403.407) such party's entitlement to benefits has ended and, if so, the last month for which such party is entitled to benefits. Such findings of fact and determination shall be made whenever it appears to the Bureau that such party's entitlement to benefits has ended.

(4) *Parent's dependency.* The Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether a parent (hereafter referred to as the party to the determination) was wholly dependent upon and supported by a fully insured individual at the time of such individual's death. Such findings of fact and determination shall be made when evidence of such dependency and support is submitted by the party at a time prior to the filing of an application by

him for parent's insurance benefits, but, except as otherwise provided in § 403.701 (j) within 2 years after the death of the insured individual. (See §§ 403.407 (a) (3) and 403.702 (i).)

(5) *Revision of wage records.* When requested by an individual, or, after his death, by his widow, child, or parent (see § 403.703) the Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether the Administration's record of such individual's wages should be revised, either by changing the records as to the amount or time of payment of wages or by entering new items of wages in such records. (The person filing the request for revision is hereafter referred to as the party to the determination.) The determination as to revision, if it is determined that the records shall be revised, shall specify the amount of any increase or decrease to be made, the amount of any omitted item to be included, and the period or periods of payment to be shown by the records.

(6) *Claims or proceedings involving wartime maritime services in the employ of the United States.* The determination of the Administrator, War Shipping Administration, or his designated agents, as to whether an individual has performed services which constitute employment as defined by section 209 (o) of the act as amended (see § 403.803 (d)) as to the periods of such services, as to the amounts of remuneration for such services, and as to the periods in which or for which such remuneration was paid (see § 403.827 (c)) shall be final and conclusive upon the Bureau as to the matters so determined. The Bureau shall make no independent determinations concerning any matter determinable by the Administrator, War Shipping Administration, but shall accept the determinations of the Administrator or his designated agents with respect thereto as evidenced either by tax returns filed pursuant to section 1426 (i) of the Internal Revenue Code or by certifications. In any case in which information necessary to the disposition of a claim or proceeding shall be lacking as to any matter determinable by the Administrator, War Shipping Administration, or in which information set forth in such tax returns appears to be incomplete or questionable, the Bureau shall request the Administrator, War Shipping Administration, or his appropriate designated agent to make certification to it in writing of such missing, incomplete, or questionable information.

(b) *Notice of initial determination.* Written notice of an initial determination shall be mailed to the party to the determination at his last known address, except that no such notice is necessary where there is a determination that a party's entitlement to benefits has ended because of such party's death (see paragraph (a) (3) of this section)

If the initial determination disallows, in whole or in part, the application or request of a party, or if the initial determination is to the effect that a parent was not wholly dependent upon and supported by a fully insured individual, or that a party's entitlement to benefits has ended, or that a reduction, deduction, or adjustment is to be made in benefits or a lump sum, or an increase in benefits is to be terminated, the notice of the determination sent to the party shall state the basis for the determination; the notice of such a determination shall also inform the party of the right to reconsideration and hearing (see §§ 403.707–403.709) unless such determination is to the effect that a deduction or termination is to be made and such determination is based upon facts reported to the Bureau by the party to the determination.

(c) *Effect of initial determination.* The initial determination shall be final and binding upon the party to such determination unless (1) it is reconsidered in accordance with § 403.708, or (2) a hearing is held in accordance with § 403.709, or (3) it is revised in accordance with § 403.711 (b)

§ 403.707 *Reconsideration or hearing.* A party who is dissatisfied with an initial determination may, at his option, request that the Bureau reconsider such determination, as provided in § 403.708, or request a hearing before a referee, as provided in § 403.709. If a request for reconsideration is filed, such action shall not constitute a waiver of the right to a hearing, and a request for a hearing may be thereafter filed, as is provided in § 403.709.

§ 403.708 *Reconsideration*—(a) *Right to reconsideration.* The Bureau shall reconsider an initial determination if, prior to the filing of a request for a hearing (see § 403.709 (a) (b) and (c)) a written request for reconsideration is filed, as provided in paragraph (b) of this section, by the party to the initial determination (see § 403.706 (a))

The Bureau shall also reconsider an initial determination (see § 403.706 (a) (1) to (4) inclusive) unless the determination is with respect to the revision of the Administration's wage records, if, prior to the filing of a request for a hearing, a written request for reconsideration is filed, as provided in paragraph (b) of this section, by any individual who makes a showing in writing that his rights with respect to benefits or a lump sum may be prejudiced by such determination.

The Bureau shall also reconsider an initial determination relating to the revision of the Administration's record of an individual's wages (see § 403.706 (a) (5)) if, prior to the filing of a request for a hearing, a written request for reconsideration is filed, as provided in paragraph (b) of this section, by the widow, child, or parent of such individual after his death.

(b) *Time and place of filing request for reconsideration.* The request for reconsideration shall be made in writing and filed at an office of the Bureau.

The request for reconsideration, unless the determination to be reconsidered is with respect to the revision of the Administration's wage records (see § 403.706 (a) (5)) must be filed within six months from the date of mailing notice of the initial determination, except as is provided in §§ 403.701 (j) and 403.711 (a)

The request for the reconsideration of an initial determination as to the revision of the Administration's wage records may be filed at any time after the mailing of notice of such determination, but, if the request is filed more than 60 days after the fourth calendar year following the year in which the wages in question were paid or are alleged to have been paid, except as provided in § 403.701 (j), such determination will not be reconsidered except for the purpose of revising the wage records in accordance with section 205 (c) (4) of the act (see § 403.703)

(c) *Parties to the reconsideration.* The parties to the reconsideration shall be the person who was the party to the initial determination (see § 403.706 (a)) and any other individual (see paragraph (a) of this section) if there be such, upon whose request the initial determination is reconsidered.

(d) *Notice of reconsideration.* If the request for reconsideration is filed by an individual other than the party to the initial determination, the Bureau shall, before revising the initial determination adversely to the interests of such party, mail a written notice to such party, at his last known address, informing him that the initial determination is being reconsidered, and the Bureau shall give such party a reasonable opportunity to present such evidence or contentions, as he may desire, relative to the determination.

(a) *Reconsidered determination.* The Bureau shall, when a request for reconsideration has been filed, as provided in paragraphs (a) and (b) of this section, reconsider the initial determination in question and the findings upon which it was based, and, upon the basis of the evidence considered in connection with the initial determination and such other evidence as is submitted by the parties or otherwise obtained, the Bureau shall make a reconsidered determination affirming or revising, in whole or in part, the findings and determination in question.

Where reconsideration involves any matters determinable by the Administrator, War Shipping Administration (see §§ 403.803 (d), 403.827 (c)), the Bureau shall comply with the procedure established by § 403.706 (a) (6) as to such matters.

(f) *Notice of reconsidered determination.* Written notice of the reconsidered determination shall be mailed to the parties at their last known addresses. The notice of the reconsidered determination shall state the basis for such determination and inform the parties of their right to a hearing (see § 403.709)

(g) *Effect of reconsidered determination.* The reconsidered determination shall be final and binding upon all parties to the reconsideration unless a hearing is requested in accordance with § 403.709 or unless such determination is revised in accordance with § 403.711 (b)

§ 403.709 *Hearing*—(a) *Right to hearing.* Any party designated in paragraph (c) of this section shall be entitled to a hearing with respect to any matter designated in § 403.706 (a) after an initial or reconsidered determination has been made by the Bureau (see §§ 403.706 to 403.708, inclusive), if such party files, as provided in paragraph (b) of this section, a written request for a hearing. (Special provisions concerning hearings

with respect to matters determinable by the Administrator, War Shipping Administration (see § 403.706 (a) (6)) are contained in § 403.711a.)

(b) *Time and place of filing request for hearing.* The request for hearing shall be made in writing and filed at an office of the Bureau, with a referee, or with the Office of Appeals Council in the Social Security Administration.

If no request for reconsideration has been filed, as provided in § 403.708 (a) and (b) and the matter to be heard is not with respect to the revision of the Administration's wage records, the request for hearing must be filed within six months from the date of mailing notice of the initial determination, except as is provided in §§ 403.701 (j) and 403.711 (a) If a request for reconsideration has been filed and the matter to be heard is not with respect to the revision of the Administration's wage records, (1) the request for hearing may be filed at any time prior to the mailing of notice of the reconsidered determination if such notice has not been mailed within 45 days after the filing of the request for reconsideration, or (2) the request for hearing must be filed within 3 months after the date of mailing notice of the reconsidered determination, except as is provided in §§ 403.701 (j) and 403.711 (a)

If the matter to be heard is with respect to the revision of the Administration's wage records, the request for hearing may be filed at any time after the mailing of notice of the initial or reconsidered determination, but if a request for reconsideration has been filed the request for hearing may not be filed until after the mailing of notice of the reconsidered determination unless such notice has not been mailed within 45 days after the filing of the request for reconsideration. However, if the request for hearing is filed more than 60 days after the expiration of the fourth calendar year following the year in which the wages in question were paid or are alleged to have been paid, except as provided in § 403.701 (j) no hearing will be held with respect to the revision of the wage records except as is provided in section 205 (c) of the act (see § 403.703)

(c) *Parties to a hearing.* The parties to a hearing shall be the person or persons who were parties to the initial determination in question and the reconsideration, if there has been reconsideration. Any other individual shall be a party, if such individual's rights with respect to benefits or a lump sum may be prejudiced and if notice is given to him by the referee to appear at the hearing and answer as to his interests.

The following individuals, in addition to those named above, may also be parties to the hearing: Unless the hearing is with respect to the revision of the Administration's wage records, any individual may be a party to the hearing who makes a showing in writing that his right to benefits or a lump sum may be prejudiced. Where the hearing is with respect to the revision of the Administration's record of an individual's wages, the widow, child, or parent of such individual may be, after his death, a party to the hearing upon filing a written notice of desire to be a party.

(d) *Referee.* The hearing provided for in this section shall be, except as herein provided, conducted by a referee designated by the Chairman of the Appeals Council. The Chairman may designate a member of the Appeals Council to conduct a hearing. The Regional Director of the Social Security Administration may conduct hearings in the Territories of Alaska and Hawaii. The provisions of this section governing the referee shall be applicable to a member of the Appeals Council or a Regional Director in conducting a hearing.

No referee shall conduct a hearing in which he is personally prejudiced or partial with respect to any party. Notice of any objections which a party may have to the referee shall be made by such party at his earliest opportunity. The referee shall consider such objections and shall, according to his determination, either proceed with the hearing or withdraw. If the referee withdraws, another referee shall be designated by the Chairman of the Appeals Council to conduct the hearing. If the referee does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council, as provided in § 403.710, as a reason why the referee's decision should be revised or a new hearing held before another referee.

(e) *Time and place of hearing, and hearings on new issues.* The referee shall fix a time and place for the hearing. Written notice of the time and place of hearing, unless waived by a party, shall be mailed not less than 10 days prior to such time, to the parties at their last known addresses or given to them by personal service. Written notice of the objections of any party to the time and place fixed for a hearing shall be filed with the referee at the earliest opportunity of the objecting party. The notice shall state the reasons for the party's objections and his desires as to the time and place for hearing.

At any time after a request for a hearing has been made as provided in this section, but prior to the mailing of notice of the decision, the referee may in his discretion, either on the application of a party or on his own motion, in addition to the matters brought before him by the request for hearing, raise an issue on any other matter (whether similar or different in nature) designated in § 403.706 (a) which may affect the rights of any party to the matter pending before him, even though the Bureau has not made an initial or reconsidered determination with respect to such new issue: *Provided, however* That notice of the time and place of the hearing on such new issue shall, unless waived, be given to the parties within the time and in the manner specified in this paragraph. Upon the giving of such notice, the matter shall, except as otherwise provided, proceed to hearing and be treated in the same manner as a matter on which an initial or reconsidered determination has been made by the Bureau and a hearing requested with respect thereto by a party entitled to such hearing.

The referee may change the time and place for the hearing, either upon his own motion or for good cause shown by a party. The referee may adjourn or postpone the hearing, or reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice of the decision in the case. Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or a reopening of the hearing.

(f) *Subpenas.* When reasonably necessary for the full presentation of a case, the referee, a member of the Appeals Council, or other duly authorized employee of the Administration, may, either upon his own motion or upon the request of a party, issue subpenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are material and relevant to any matter in issue at the hearing. Parties who desire the issuance of a subpena shall, within 5 days prior to the time fixed for the hearing, file with the referee or a field office of the Bureau a written request therefor designating the witness or document to be produced, and the address or location thereof, with sufficient particularity to permit such witness or document to be found. The request for a subpena shall state the pertinent facts which the party expects to establish by such witness or document and as to whether such facts may reasonably be established by other evidence without the use of a subpena.

Subpenas, as provided in this paragraph, shall be issued in the name of the Federal Security Administrator or the Commissioner for Social Security, and the Administration shall pay the cost of issuance and the fees and mileage of the witnesses so subpenaed as provided in section 205 (d) of the act.

(g) *Conduct of hearing and evidence.* Hearings shall be open to the parties and to such other persons as the referee deems necessary and proper.

The referee shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to the issues. If the referee believes that there is relevant and material evidence available which has not been presented at the hearing, the referee may adjourn the hearing, or at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence.

Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedure. However, if the request for the hearing was filed more than 60 days after the fourth calendar year following any year in which wages were paid or are alleged to have been paid an individual, the records of the Administration as to the wages of such individual for any such year shall be conclusive and no evidence other than the Administration's wage records shall be introduced with respect to the wages for any such year except evidence with respect to the conformity of the Administration's wage records with tax returns or portions of tax returns (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act

or under regulations made under authority thereof.

Witnesses at the hearing shall testify under oath or affirmation, unless they are excused by the referee for cause. The referee may examine the witnesses or allow the parties or their representatives to do so. If the referee conducts the examination of a witness, he shall allow the parties to suggest matters as to which they desire the witness to be questioned, and the referee shall question the witness with respect to such matters if they are relevant and material to the issues.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral arguments or for the filing of briefs or other written statements of contentions. Where there is more than one party to the hearing, copies of any brief or other written statement shall be filed in a sufficient number that they may be made available to any party requesting a copy and to such other parties as the referee may designate.

The order in which evidence and contentions shall be presented and the procedure at the hearing generally, except as is expressly provided by these regulations, shall be in the discretion of the referee and shall be of such nature as to afford the parties a reasonable opportunity for a fair hearing.

A complete stenographic record of the proceedings at the hearing shall be made. When directed by the Appeals Council or the referee, the record shall be transcribed where the case is certified to or reviewed by the Appeals Council (see paragraph (k) of this section and § 403.710 (a) and (b))

(h) *Joint hearings and consolidated issues.* When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing, the referee may fix the same time and place for each hearing and conduct all such hearings jointly. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others, but a separate decision shall be made in each case.

When one or more new issues are raised by the referee pursuant to paragraph (e) of this section, such new issues, may, in the discretion of the referee, be consolidated for hearing and decision with other issues pending before him upon the same application, whether or not the same or substantially similar evidence is relevant and material to the matters in issue, and a single decision may be made upon all such issues.

(i) *Waiver of right to appear and present evidence.* If all parties waive their right to appear and present evidence and contentions at a hearing, it shall not be necessary for the referee to give notice of and conduct a hearing, as provided in this section. The waiver of the right to appear and present evidence and contentions shall be made in writing and filed with the referee. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in such case.

Where all of the parties have filed a waiver of the right to appear and present evidence at a hearing before the referee, the referee may, nevertheless, give notice of a time and place and conduct a hearing as provided in this section if he believes that such action is reasonably necessary in order to ascertain the facts in issue. Where such waiver has been filed by all parties, and a hearing is not held, the referee shall make a record of the relevant certificates, affidavits, reports, and other documents which were considered in connection with the initial determination and reconsideration if there has been reconsideration. Such documents shall be considered as all of the evidence in the case and the decision, as provided for in paragraph (k) of this section, shall be based upon them.

(j) *Dismissal of request for hearing.* The referee may, at any time prior to the mailing of the notice of the decision, dismiss a request for hearing if all parties have consented to or requested the dismissal or have abandoned the hearing. Notice of the referee's action of dismissal shall be given to the parties or mailed to them at their last known addresses.

A party may consent to or request the dismissal by filing a written notice of such request or consent with the referee or orally stating such request or consent at the hearing.

A party shall be deemed to have abandoned a hearing if neither the party nor his representative appears at the time and place fixed for the hearing and, either (1) prior to the time for hearing such party does not show good cause as to why neither he nor his representative can appear or (2) within 15 days after the mailing of a notice to him by the referee to show cause, such party does not show good cause for such failure to appear and failure to notify the referee prior to the time fixed for hearing.

(k) *Referee's decision, remanding to Bureau, or certification to Appeals Council.* As soon as practicable after the close of a hearing, the referee, except as herein provided, shall make a decision in the case or certify the case to the Appeals Council for decision (see § 403.710 (a)) However, if new and material evidence has been presented at the hearing which was not before the Bureau when the initial or reconsidered determination was made, the referee may, in his discretion, remand the case to the Bureau in the event that he believes such procedure to be advisable.

If a case is remanded to the Bureau, the Bureau may, upon the basis of the evidence adduced at the hearing, revise its previous determination. If the Bureau does so revise its previous determination, written notice of such revision, containing findings of fact and a statement of reasons, shall be mailed to the parties to the hearing at their last known addresses. If the Bureau does not revise its determination, when a case is remanded, the Bureau shall return the case to the referee for his decision or for certification by him to the Appeals Council.

If the referee makes a decision in the case, such decision shall, except as is provided in paragraph (i) of this section, be based upon the evidence adduced at the hearing. The decision shall be made in writing and contain findings of fact and a statement of reasons. A copy of the decision shall be mailed to the parties at their last known address.

(l) *Effect of referee's decision or revision by the Bureau.* The referee's decision or the revised determination of the Bureau, provided for in paragraph (k) of this section, shall be final and binding upon all parties to the hearing unless it is reviewed by the Appeals Council (see § 403.710 (b)) or unless it is revised in accordance with § 403.711 (b) If a party's request for review of the referee's decision or the revised determination of the Bureau is denied (see § 403.711 (b)) such decision or revised determination shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States, as is provided in section 205 (g) of the act, or unless the decision is revised in accordance with § 403.711 (b)

§ 403.710 *Appeals Council proceedings on certification and review—*(a) *Procedure before Appeals Council on certification by the referee.* The Office of the Appeals Council in the Social Security Administration shall, when a case has been certified to it by a referee without decision (see § 403.709 (k)), mail notice of such action to the parties at their last known addresses. A copy of the transcript of evidence adduced at the hearing or a condensed statement thereof or, where the hearing before the referee has been waived (see § 403.709 (i)) copies or a statement of the contents of the documents which are evidence in the case, shall be made available to any party upon request.

When a case has been certified to the Appeals Council for decision, the parties shall be given, upon their request, a reasonable opportunity to appear before the Appeals Council for the purpose of presenting oral argument. The parties shall also be given, upon their request, a reasonable opportunity to file briefs or other written statements of contentions. Where there is more than one party, copies of such a brief or written statement shall be filed in a sufficient number that they may be made available to any party requesting a copy or any other party designated by the Appeals Council.

Evidence in addition to the evidence introduced at the hearing before the referee, or the documents before the referee where the hearing is waived, may not be presented except where it appears to the Appeals Council that additional material evidence is available which may affect its decision. If it appears that such additional evidence is available, the Appeals Council shall receive such evidence or designate a referee or member of the Council before whom the evidence shall be introduced. Before additional evidence may be presented, as above provided, notice shall be mailed to the parties, unless such notice is waived, at their last known addresses, that evidence will be received with respect to certain matters, and the parties shall be given a reasonable opportunity to present evidence which is relevant and material to such matters. When the additional evidence is introduced before a referee or a member of the Appeals Council, a

transcript or a condensed statement of such evidence shall be made available to any party upon request.

The decision of the Appeals Council, when a case has been certified to it by a referee, shall be made in accordance with the provisions of paragraph (d) of this section.

(b) *Review of referee's decision or Bureau's revised determination.* If a referee has made a decision or the Bureau has revised its determination, as provided in § 403.709 (k) any party thereto may request the Appeals Council to review such decision or revised determination. The request for review shall be made in writing and filed with an office of the Bureau, a referee, or the Appeals Council. The request for review shall be filed within 30 days from the date of mailing notice of the referee's decision or the Bureau's revised determination except as is provided in §§ 403.701 (j) and 403.711 (a)

The Appeals Council may, in its discretion, decline a party's request for the review of a referee's decision or the Bureau's revised determination, or the Council may, within 90 days from the date of mailing notice of such decision or revised determination, review such decision or revised determination on its own motion. Notice of the action by the Appeals Council in determining to review on its own motion or granting or declining a party's request for review shall be mailed to the parties at their last known addresses.

(c) *Procedure before Appeals Council on review of referee's decision or Bureau's revised determination.* Whenever the Appeals Council determines to review a referee's decision or the revised determination of the Bureau, the council shall make available to any party upon request a copy of the transcript of evidence adduced at the hearing or a condensed statement thereof or, where the hearing before the referee was waived (see §403.709 (i)) copies or a statement of the contents of the documents upon which the referee's decision was based. The parties shall be given, upon their request, a reasonable opportunity to file briefs or other written statements of contentions. Copies of such brief or other written statement, where there is more than one party, shall be filed in a sufficient number that they may be made available to any party requesting a copy and to any other party designated by the Appeals Council.

Evidence in addition to the evidence introduced at the hearing before the referee, or the documents before the referee where the hearing is waived, may not be presented except where it appears to the Appeals Council that additional material evidence is available which may affect its decision. If it appears that such additional evidence is available, the Appeals Council shall receive such evidence or designate a referee or member of the Council before whom the evidence shall be introduced. Before additional evidence may be presented, as provided in this paragraph, notice shall be mailed to the parties, unless such notice is waived, at their last known addresses, that evidence will be received with respect to certain matters, and the parties shall be given a reasonable opportunity to present evidence which is relevant and material to such matters. When the additional evidence is introduced before a referee or a member of the Appeals Council, a transcript or a condensed statement of such evidence shall be made available to any party upon request.

(d) *Decision by Appeals Council or remanding of case.* If a case is certified to the Appeals Council by a referee or if the Council reviews a referee's decision or the Bureau's revised determination, as provided in this section, the Appeals Council shall, except as hereafter stated, make a decision. If, in the proceedings before the referee, there has been a substantial failure to comply with the provisions of § 403.709 governing the hearing, the Appeals Council may, where such action is reasonably necessary for the correction of the error, remand the case to a referee for further hearing and decision in accordance with such section.

The decision of the Appeals Council, where the case is not remanded to the referee, shall be based upon the evidence adduced at the hearing or, where the hearing before the referee was waived (see § 403.709 (i)) the documents upon which the referee's decision was based, and such further evidence as the Appeals Council may receive, as provided in paragraphs (a) and (c) of this section. The decision shall be made in writing and contain findings of fact and a statement of reasons. A copy of the decision shall be mailed to the parties at their last known addresses.

(e) *Effect of Appeals Council's decision or refusal to review.* The decision of the Appeals Council, or the decision of the referee, or revised determination of the Bureau where the request for review of such decision or revised determination is denied (see paragraph (b) of this section) shall be final and binding upon all the parties to the hearing unless a civil action is filed in a district court of the United States, as provided in section 205 (g) of the act, or unless the decision is revised in accordance with § 403.711 (b)

(f) *Procedure in cases involving wartime maritime services in the employ of the United States.* Special provisions concerning reviews of decisions with respect to matters determinable by the Administrator, War Shipping Administration (see § 403.706 (a) (6)), are contained in § 403.711a.

§ 403.711 *Extension of time and revision*—(a) *Extension of time.* If a party to an initial determination desires to file a request for reconsideration, after the time for filing such request has passed (see § 403.708 (b)) such party may file a petition with the Bureau for an extension of time for the filing of such request. Such petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown the Bureau may extend the time for filing the request for reconsideration.

Any party to an initial determination, a reconsidered determination, a revised determination of the Bureau in a remanded case (see § 403.709 (k)) a decision of a referee, or a decision of the Appeals Council may petition for an extension of time for filing a request for hearing or review or commencing a civil action in a district court, as the case may be, although the time for filing such request or commencing such action (see §§ 403.709 (b) and 403.710 (b) and section 205 (g) of the act) has passed. Such petition may be filed with a referee or the Appeals Council if an extension of the time fixed by § 403.709 (b) for requesting a hearing before such referee is sought, and shall be filed with the Appeals Council in any other case. The petition shall be in writing and shall state the reasons why the request or action was not filed within the required time. For good cause shown a referee or the Appeals Council, as the case may be, may extend the time for filing such request or action.

(b) *Revision for error.* An initial determination or reconsidered determination of the Bureau, provided for in §§ 403.706 (a) and 403.708 (e) or a determination of the Bureau which has been revised by it when the case has been remanded, as provided for in § 403.709 (k), may be revised by the Bureau, either upon the Bureau's own motion or upon the petition of any party when it clearly appears that there was an error of fact or law in such determination or that such determination was procured by misrepresentation or fraud. However, except as provided in § 403.701 (j), no determination as to the wages of an individual will be revised, except for the purposes provided in section 205 (c) (4) of the act, after the fourth calendar year following the year in which the wages were paid or are alleged to have been paid, unless a party's petition for such revision was filed prior to the expiration of such fourth year and 60 days thereafter.

Either upon the referee's or the Appeals Council's own motion, as the case may be, or upon the petition of any party to a hearing, any decision of a referee provided for in § 403.709 (k), may be revised by such referee or the Appeals Council, and any decision of the Appeals Council provided for in § 403.710 (d) may be revised by the Appeals Council, when it clearly appears that there was an error of fact or law in such decision or that such decision was procured by fraud or misrepresentation. However, except as provided in § 403.701 (j) no decision as to the wages of an individual will be revised, except for the purposes provided in section 205 (c) (4) of the act, after the fourth calendar year following the year in which wages were paid or are alleged to have been paid, unless a party's petition for such revision was filed prior to the expiration of such fourth year and 60 days thereafter.

When any determination or decision is revised, as provided in this paragraph, notice of such revision shall be mailed to the parties to such determination or decision at their last known addresses. The notice of revision, which is mailed to the parties, shall state the basis for the revision and inform the parties of their right to a hearing, as provided herein. Except as provided in § 403.701 (j) the revision of the determination or decision shall be final and binding upon all such parties unless such a party,

within 60 days after the date of mailing notice of the revision, files a written request for a hearing. Upon the filing of such a request, a hearing with respect to such revision shall be held and decision made in accordance with the provisions of § 403.709.

§ 403.711 *Hearing and review in cases involving wartime maritime services in the employ of the United States.* The provisions of this section shall govern hearings and reviews in all cases in which issues appear or are presented involving wartime maritime services constituting employment in the employ of the United States (see § 403.803 (d))

The Appeals Council, its members and referees, and the Regional Directors of the Administration for the Territories of Alaska and Hawaii, in matters determinable by the Administrator, War Shipping Administration, pursuant to section 209 (o) of the Social Security Act (see §§ 403.803 (d) and 403.827 (c)) and involved in or presented at hearings conducted pursuant to section 205 (b) of the Social Security Act, as amended, will make determinations of such matters under their designation as agents of the Administrator, War Shipping Administration. Such designation is set out in General Order No. 50 of that Administrator. When hearing or reviewing a case involving such wartime maritime maritime service, the Appeals Council, its members and referees and the Regional Directors of the Social Security Administration for the Territories of Alaska and Hawaii will function in a dual capacity, on the one hand as designated agents of the Administrator, War Shipping Administration, and on the other as referee or Appeals Council, as the case may be, of the Social Security Administration. All issues involved in such a case may be disposed of at a single hearing or review and by a single decision.

(a) *Right to hearing.* Any party designated in § 403.709 (c) shall be entitled to a hearing with respect to any matter designated in § 403.706 (a) after an initial determination has been made by the Bureau, if such party files, as provided in § 403.709 (b) a written request for such hearing.

(b) *Parties to hearing.* The parties to a hearing shall be those specified in § 403.709 (c) together with the General Agent of the War Shipping Administration who shall have filed the tax return or made the certification referred to in § 403.706 (a) (6) or, in the event that there is no such General Agent, the Administrator, War Shipping Administration.

(c) *Conduct of hearing.* The hearing shall be conducted in accordance with § 403.709 (d) (e) (f) (g) (h) (i) and (j) except as hereinafter set forth. Evidence shall be received from any party as to the performance of services claimed to be wartime maritime services constituting employment in the employ of the United States (see § 403.803 (d)) the period of performance of such services, the remuneration therefor, and the periods in which and for which such remuneration was paid (see § 403.827 (c))

(d) *Referee's decision or certification to Appeals Council.* As soon as practicable after the close of a hearing, the referee shall make a decision in the case or certify the case to the Appeals Council for decision. The referee shall not remand to the Bureau for revision any case heard pursuant to the provisions of this section.

The referee's decision shall be based upon the evidence adduced at the hearing. The decision shall be made in writing and be divided into two parts. The first part shall consist of a determination relative to the question of wartime maritime service constituting employment in the employ of the United States as defined by section 209 (o) (1) of the act, specifically whether the performance of the services in question constitute such employment, the period of such employment, the remuneration therefor, and the periods in which and for which such remuneration was paid. The determination shall contain findings of fact and a statement of reason. Such determination shall be made by the referee as agent for the Administrator, War Shipping Administration, and shall be so subscribed by him. In reaching and making such determinations as designated agent, the referee shall follow the provisions of section 209 (o) of the act as amended (see §§ 403.803 (d) and 403.827 (c)) and the regulations or orders issued pursuant thereto from time to time by the Administrator, War Shipping Administration. The second part of the decision shall consist of the referee's findings and statements of reasons upon all matters not determinable by the Administrator, War Shipping Administration, together with his decision in the entire case, based upon both his determination as designated agent of that Administrator and his findings as referee of the Social Security Administration. In reaching the conclusions required by the second part of the decision he shall be governed by all rules and regulations of the Social Security Administration.

A copy of the decision shall be mailed to the parties at their last known addresses.

(e) *Procedure before Appeals Council on certified case.* The procedure before the Appeals Council when a case has been certified to it by a referee without decision shall be as set forth in § 403.710 (a) except that the decision of the Appeals Council shall be in the form prescribed in paragraph (d) of this section.

(f) *Procedure before Appeals Council on review of referee's decision.* The decision of a referee made as provided in paragraph (d) of this section, shall be subject to review by the Appeals Council in the manner provided by § 403.710 (b) The procedure before the Appeals Council on such review shall be as provided in § 403.710 (c) and a case may be remanded to a referee as provided in § 403.710 (d) The decision of the Appeals Council, where the case is not remanded, shall be in the form and mailed as prescribed by § 403.710 (d) except that it shall be divided into two parts in the form prescribed in paragraph (d) of this section.

(g) *Extension of time and revision.* The provisions for extensions of time, revision, and extensions of time for commencing a civil action in a district court of the United States, set forth in § 403.711, shall be applicable to proceedings under this section.

(h) *Effect of decisions.* Decisions of the Appeals Council and decisions of referees not reviewed by the Appeals Council, rendered under this section, shall be final and binding upon all parties to the hearing, subject only to review by a civil action filed in a district court of the United States as provided by section 205 (g) of the act as amended, or as provided in paragraph (g) of this section. That portion of the final decision which represents the determination of the Administrator, War Shipping Administration, by his designated agent, shall supersede all previous determinations and certifications of such Administrator or his designated agents as to the matters involved in such factor of the final decision.

SECTION 205 (i) OF THE ACT

Upon final decision of the Board, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this title, the Board shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Division of Disbursement of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Board: *Provided*, That where a review of the Board's decision is or may be sought under subsection (g) the Board may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Board.

SECTION 207 OF THE ACT

The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

§ 403.712 *Certification of payments—(a) Determination or decision providing for payment.* When a determination or decision has been made under any of §§ 403.706 to 403.711, inclusive, to the effect that a payment or payments under Title II of the act should be made to any person, the Administration shall, except as hereafter provided, certify to the Managing Trustee of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund the name and address of the person to be paid (see § 403.705), the amount of the payment or payments, and the time at which such payment or payments should be made.

When a determination or decision, as above-described, has been made, the Administration may withhold certification to the Managing Trustee, or if certification has been made, may notify the Managing Trustee to withhold payments, to the extent and during such time that the payment or payments, to be made pursuant to such determination or decision, are in question by reason of the fact that:

(1) A reconsideration, hearing, or review, is being conducted, or a civil action has been filed in a distict court of the United States, with respect to such determination or decision; or

(2) An application or request is pending with respect to the payment of benefits or a lump sum to another person and such application or request is inconsistent, in whole or in part, with the payment or payments under such determination or decision:

Provided, however That certification or payment shall not be withheld, under the above circumstances, unless, in connection with the request or application described in subparagraphs (1) and (2) of this paragraph, evidence is submitted which is sufficient to raise a substantial question with respect to the correctness of the payment or payments under the determination or decision. The Administration shall, however, certify for payment, as above provided, the amount of the payment or payments which is not in question. The acceptance of any payment or payments by a person entitled thereto shall be without prejudice to his rights to reconsideration, hearing, or review, as to any additional payment or payments claimed by such person.

(b) *Transfer or assignment.* The Administration shall not certify, as provided in paragraph (a) of this section, any amount for payment to the assignee or transferee of the person entitled to such payment under the act, nor shall the Administration certify such amount for payment to any person claiming such payment by virtue of an execution, levy, attachment, garnishment, or other legal process or by virtue of bankruptcy or insolvency proceeding against or affecting the person entitled to the payment under the act.

SECTION 206 OF THE ACT

The Board may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Board, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Board upon filing with the Board a certificate of his right to so practice from the presiding judge or clerk of any such court. The Board may, after due notice and opportunity for hearing, suspend or prohibit from further practice before it any such person, agent, or attorney who refuses to comply with the Board's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Board may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Board under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Board shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

§ 403.713 *Representation of parties*—(a) *Appointment of representatives.* A party to an initial determination, reconsideration, hearing, or review, as provided for in §§ 403.700 to 403.711a, inclusive, may appoint as his representative in such proceeding any individual who is qualified under paragraph (b) of this section to act as a representative. Notice of the appointment of a representative shall be made in writing, signed by the party appointing the representative, and shall be acknowledged by the representative appointed. The notice of appointment shall be filed at an office of the Bureau or with a referee or with the Office of the Appeals Council in the Social Security Administration.

(b) *Qualifications of representatives.* Any individual, appointed in accordance with paragraph (a) of this section, unless otherwise prohibited by law, may act as a representative, except that no individual may act as a representative who is disbarred or under suspension from acting as a representative in proceedings before the Social Security Administration (see paragraph (f) of this section).

(c) *Authority of representatives.* A representative, appointed and qualified as provided in paragraphs (a) and (b) of this section, may make or give, on behalf of the party he represents, any request or notice relative to the proceedings except that such representative may not execute an application for benefits or a lump sum, a request for reconsideration, hearing, or review, unless he is a person designated in § 403.701 (c) as authorized to execute the application for benefits or a lump sum. A representative shall be entitled to present evidence and contentions in any proceedings affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any action, determination, or decision, or request to any party for the production of evidence, may be sent to the representative of such party, and such notice or request shall be of the same force and effect as if sent to the party represented.

(d) *Fees for services.* Fees for the services of a representative, appointed and qualified in accordance with paragraphs (a) and (b) of this section, may be charged and received from the party represented only as is provided in this paragraph.

A fee in an amount not greater than $10.00 may be charged and received by an attorney who is admitted to practice before the highest court, or an inferior court of a State, Territory, District, or insular possession, or before the Supreme Court of the United States or an inferior Federal court, and who is not otherwise prohibited by law from charging or receiving such a fee. Upon the petition of such an attorney the Bureau, a referee, or the Appeals Council may, for good cause shown, authorize the attorney to charge and receive a maximum fee in excess of $10.00.

No individual other than an attorney, as provided in this paragraph, may charge or receive a fee unless he is authorized to do so by the Bureau, a referee, or the Appeals Council as herein stated. An individual other than an attorney who desires authorization to charge or receive a fee shall file a written petition therefor and make a showing that he is not otherwise prohibited from charging or receiving a fee, that he has special qualifications which enable him to render valuable services to a party, and that he has rendered such services to the party he represents. Upon the filing of such petition and the making of such showing the amount of the fee, if any, which may be charged or received, shall be determined in each case by the Bureau, a referee, or the Appeals Council, and no fee shall be charged or received in excess thereof.

(e) *Rules governing the representation and advising of claimants and parties.* No attorney or other person shall:

(1) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten (by word, circular, letter, or advertisement) any claimant or prospective claimant or beneficiary with respect to benefits, lump sums, or wage records; or

(2) Knowingly charge or collect, directly or indirectly, or make any agreement, directly or indirectly, to charge or collect, any fee in connection with any claim except under the circumstances stated in paragraph (d) of this section and not in excess of the amount provided for in paragraph (d) of this section; or

(3) Knowingly make or participate in the making or presentation of any false statement, representation, or claim as to the amount of wages paid an individual, or the time of payment, or as to any material fact affecting the right of any person to benefits or a lump sum, or the amount thereof; or

(4) Divulge, except as may be authorized by regulations now or hereafter prescribed by the Commissioner, any information furnished or disclosed to him by the Administration relating to the claim or prospective claim of another person.

(f) *Proceedings for suspension or disbarment.* Whenever the Commissioner has knowledge or information that an attorney or other individual has violated any of the provisions of paragraph (e) of this section, a written statement of the Commissioner's charges shall be mailed to such attorney or other individual at his last known address, together with a notice to file an answer, within 30 days from the date of mailing, as to why such attorney or other individual should not be prohibited from acting as a representative and from charging and receiving fees for services, as is provided in paragraphs (a) to (e) inclusive, of this section. The Commissioner may, for good cause shown, extend the time within which

the answer may be filed. No answer will be accepted unless it is made in writing under oath and is filed within the 30-day period or such extended time as the Commissioner may allow.

At the expiration of the time within which an answer may be filed, a time and place shall be fixed for a hearing with respect to such charges, and notice thereof shall be mailed, not less than 15 days prior to the time fixed for the hearing, to the attorney or other individual at his last known address.

The hearing shall be conducted by the Commissioner or his authorized representative. Witnesses shall be sworn and evidence recorded. If the attorney or other individual has filed an answer as above provided, he may present evidence in support of his statements in such answer. If he has filed no answer, he shall have no right to present evidence, but he may appear at the hearing for the purpose of presenting to the Commissioner or his authorized representative his contentions with regard to the sufficiency of the evidence or proceedings as the basis for his disbarment or suspension. Upon the basis of the evidence adduced at the hearing, the Commissioner, or his authorized representative, shall determine whether or not the charges have been sustained, such attorney or other individual shall not be qualified to act as a representative and shall not be qualified to charge or receive any fee for services, as provided in this section. Such disqualification, however, to act as a representative and to charge and receive fees may be limited to a specified period of time.

Such determination shall be made in writing and a copy shall be mailed to the attorney or individual affected.

§ 403.714 *Definitions*—(a) *Bureau.* The term Bureau as used in §§ 403.706 to 403.713, inclusive, of these regulations means those officers and employees of the Bureau of Old-Age and Survivors Insurance who have been authorized by the Commissioner for Social Security to perform the functions referred to in said sections.

SUBPART H—DEFINITIONS

SECTION 209 OF THE ACT

When used in this title:

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include:

(1) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year prior to 1940, is paid to such individual by such employer with respect to employment during such calendar year;

(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual with respect to employment during such calendar year;

(3) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either under his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(4) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code or (B) of any payment required from an employee under a State unemployment compensation law;

(5) Dismissal payments which the employer is not legally required to make; or

(6) Any remuneration paid to an individual prior to January 1, 1937.

(b) The term "employment" means any service performed after December 31, 1936, and prior to January 1, 1940, which was employment as defined in section 210 (b) of the Social Security Act prior to January 1, 1940 (except service performed by an individual after he attained the age of sixty-five if performed prior to January 1, 1939), and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except:

(1) Agricultural labor (as defined in subsection (l) of this section);

(2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed [on], or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;

(6) Service performed in the employ of the United States Government, or of an instrumentality of the United States which is (A) wholly owned by the United States, or (B) exempt from the tax imposed by section 1410 of the Internal Revenue Code by virtue of any other provision of law;

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 1410 of the Internal Revenue Code;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(9) Service performed by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code;

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Internal Revenue Code, if:

(i) The remuneration for such service does not exceed $45, or

(ii) Such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or

(iii) Such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

(B) Service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Internal Revenue Code;

(C) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(D) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(E) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed $45 (exclusive of room, board, and tuition);

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four

years' course in a medical school chartered or approved pursuant to State law;

(14) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming, of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(15) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act. (As amended by section 5 (a) of the Act approved December 29, 1945, 59 Stat. 669, adding paragraph (16) effective January 1, 1946.)

(c) If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (b).

(d) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

* * * * *

(l) The term "agricultural labor" includes all service performed:

(1) On a farm, in the employ of any person in connection, with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple sirup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

* * * * *

(o) (1) *Officers and members of crews employed by War Shipping Administration.* The term "employment" shall include such service as is determined by the Administrator, War Shipping Administration, to be performed after September 30, 1941, and prior to the termination of title I of the First War Powers Act, 1941, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration or, in respect of such service performed before February 11, 1942, the United States Maritime Commission, but shall not include any such service performed (1) under a contract entered into without the United States and during the performance of which the vessel does not touch at a port in the United States, or (2) on a vessel documented under the laws of any foreign country and bare-boat chartered to the War Shipping Administration.

(2) The Social Security Board shall not make determinations as to whether an individual has performed services which are employment by reason of this subsection, or the periods of such services, or the amounts of remuneration for such services, or the periods in which or for which such remuneration was paid, but shall accept the determinations with respect thereto of the Administrator, War Shipping Administration, and such agents as he may designate, as evidenced by returns filed by such Administrator as an employer pursuant to section 1426 (i) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator, War Shipping Administration, is authorized and directed, upon written request of the Social Security Board, to make certification to it with respect to any matter determinable for the Board by the War Shipping Administrator under this subsection, which the Board finds necessary in administering this title.

(4) This subsection shall be effective as of September 30, 1941. (As retroactively added by section 1 (b) (2) of the Act of March 24, 1943, 57 Stat. 47, as amended by the act approved April 4, 1944, 58 Stat. 188.)

* * * * *

SECTION 1101 (a) AND (b) OF THE ACT

(a) When used in this Act:

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia, and when used in Titles V and VI of such act (including section 531) includes Puerto Rico.

(2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member of an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

§ 403.801 *General definitions and use of terms.* As used in the regulations in this part except § 403.1.

(a) The terms defined in the above quoted provisions of law shall have the meanings therein assigned to them.

(b) "Social Security Act" means the act approved August 14, 1935 (49 Stat. 620).

(c) "Social Security Act Amendments of 1939" means the act approved August 10, 1939 (53 Stat. 1360)

(d) "Act" means the Social Security Act, as amended, effective January 1, 1940, and as subsequently amended. (See § 403.1 for a chronological description of the pertinent statutes.)

(e) "Section" means a section of the regulations in this part unless the context clearly indicates otherwise.

(f) "Internal Revenue Code" means the act approved February 10, 1939 (53 Stat., Part 1), entitled "An act to consolidate and codify the internal revenue laws of the United States," as amended.

(g) "Board" means the Social Security Board established pursuant to title VII of the act.

(h) "Bureau" means the Bureau of Old-Age and Survivors Insurance of the Social Security Administration.

(i) "Benefit" means a primary insurance benefit, wife's insurance benefit, child's insurance benefit, widow's insurance benefit, widow's current insurance benefit, or parent's insurance benefit under Title II of the act. (Lump sums, which are benefits under Title II of the act, except as the context of such title may indicate otherwise, are excluded from the term "benefit" as herein defined, to permit greater clarity in the regulations.)

(j) "Lump sum" means a lump-sum death payment under Title II of the act or any person's share of such a lump-sum death payment.

(k) "Wage earner" means an individual who has been paid wages.

(l) "Attainment of age." An individual attains a given age on the first moment of the day preceding the anniversary of his birth corresponding to such age.

(m) "Wages paid" means wages actually or constructively paid. Wages are constructively paid when they are credited to the account of or set apart for the employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the

wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their receipt brought within his own control and disposition.

(n) "Certify," when used in connection with the duty imposed on the Administration by section 205 (i) of the act, means that action taken by the Administration in the form of a written statement addressed to the Managing Trustee, setting forth the name and address of the person to whom payment of a benefit or lump sum, or any part thereof, is to be made, the amount to be paid, and the time at which payment should be made.

(o) "Regulations No. 2" means the regulations approved July 20, 1937, as amended from time to time, relating to Federal old-age benefits under Title II of the Social Security Act and amendments to such title effective prior to January 1, 1940. See § 403.1 (a) (2).)

(p) "Masculine gender" includes the feminine, unless otherwise clearly indicated.

(q) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

(r) "Commissioner" means the Commissioner for Social Security as provided by Federal Security Agency Order 57, dated July 16, 1946 (11 F. R. 7943)

(s) "Administration," except where the context clearly indicates otherwise, means the Social Security Administration created by Federal Security Agency Order 3, dated July 16, 1946 (11 F R. 7942)

(t) "Appeals Council" means the Office of Appeals Council in the Social Security Administration as provided by Federal Security Agency Order 57, dated July 16, 1946 (11 F R. 7943)

EMPLOYMENT

SECTION 209 (b) OF THE ACT

The term "employment" means any service performed after December 31, 1936, and prior to January 1, 1940, which was employment as defined in section 210 (b) of the Social Security Act prior to January 1, 1940 (except service performed by an individual after he attained the age of sixty-five if performed prior to January 1, 1939) * * *

* * * * *

SECTION 210 (b) OF THE SOCIAL SECURITY ACT IN EFFECT PRIOR TO JANUARY 1, 1940

The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

SECTION 15 OF THE RAILROAD RETIREMENT ACT OF 1935 (49 STAT. 974)

The term "employment," as defined in subsection (b) of section 210 of Title II of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of the Railroad Retirement Act of 1935.

SECTION 17 OF THE RAILROAD RETIREMENT ACT OF 1937 (50 STAT. 317)

The term "employment," as defined in subsection (b) of section 210 of Title II of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b).

SECTION 902 (f) OF THE SOCIAL SECURITY ACT AMENDMENTS OF 1939

* * * No payment shall be made under Title II of the Social Security Act with respect to services rendered prior to January 1, 1940, which are described in subparagraphs (11) and (12) of section 209 (b) of such act, as amended.

SECTION 2 OF THE ACT OF AUGUST 11, 1939 (53 STAT. 1420)

No tax shall be collected under Title VIII * * * of the Social Security Act or under the Federal Insurance Contributions Act * * * with respect to services rendered prior to January 1, 1940, in the employ of the owner or tenant of land, in salvaging timber on such land or clearing such land of brush and other debris left by a hurricane * * * No payment shall be made under Title II of the Social Security Act with respect to such services rendered prior to January 1, 1940.

§ 403.802 *Employment prior to January 1, 1940.* Under the provisions of section 209 (b) of the act (as amended, effective January 1, 1940, by section 201 of the Social Security Act Amendments of 1939) services performed prior to January 1, 1940, with an exception as noted below, constitute employment if they were employment under section 210 (b) of the Social Security Act prior to such date as modified by section 15 of the Railroad Retirement Act of 1935 and section 17 of the Railroad Retirement Act of 1937. Under the exception of section 209 (b) (as so amended) services performed prior to January 1, 1939, by an individual after attainment of age 65 are excepted from employment. Such an exception was not contained in section 210 (b) of the act prior to such amendment, a similar result being accomplished under other provisions of Title II of the act by counting as wages in determining the amount of any benefit only wages received for employment before the individual attained the age of 65. The exception of services performed by an individual after attainment of age 65 is not applicable with respect to services performed on or after January 1, 1939.

Payments with respect to certain services are prohibited notwithstanding such services are not excepted from employment as defined by section 210 (b) of the Social Security Act in effect prior to January 1, 1940. Payments so prohibited are as follows:

(a) Section 902 (f) of the Social Security Act Amendments of 1939 provides that no payment shall be made under Title II of the act with respect to services rendered prior to January 1, 1940, which are described in subparagraph (11) (relating to services performed in the employ of foreign governments) and in subparagraph (12) (relating to services performed in the employ of certain instrumentalities of foreign governments) of section 209 (b) of the act in force on and after January 1, 1940.

(b) Section 2 of the act of August 11, 1939 (53 Stat. 1420) provides that no payment shall be made under Title II of the act with respect to services rendered prior to January 1, 1940, in the employ of the owner or tenant of land, in salvaging timber on such land or clearing such land of brush or other debris left by a hurricane.

Notwithstanding the provisions of § 403.801 (a), the term "employment," as used in the regulations in this part, shall not be deemed to include services with respect to which payments of benefits is prohibited under such section 902 (f) of the Social Security Act Amendments of 1939 or such section 2 of the act of August 11, 1939.

Whether services performed prior to January 1, 1940, constitute employment within the meaning of the regulations in this part shall be determined in accordance with this section and the applicable provisions of Part 402 of this chapter (Regulations No. 2)

SECTION 209 (b) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * *

SECTION 209 (d) OF THE ACT

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States, or corporations organized under the laws of the United States or of any State.

SECTION 209 (o) OF THE ACT

(1) *Officers and members of crews employed by War Shipping Administration.* The term "employment" shall include such service as is determined by the Administrator, War Shipping Administration, to be performed after September 30, 1941, and prior to the termination of title I of the First War Powers Act, 1941, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration or, in respect of such service performed before February 11, 1942, The United States Maritime Commission, but shall not include any such service performed (1) under a contract entered into without the United States and during the performance of which the vessel does not touch at a port in the United States, or (2) on a vessel docu-

mented under the laws of any foreign country and bareboat chartered to the War Shipping Administration.

(2) The Social Security Board shall not make determinations as to whether an individual has performed services which are employment by reason of this subsection, or the periods of such services, or the amounts of remuneration for such services, or the periods in which or for which such remuneration was paid, but shall accept the determinations with respect thereto of the Administrator, War Shipping Administration, and such agents as he may designate, as evidenced by returns filed by such Administrator as an employer pursuant to section 1426 (1) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator, War Shipping Administration, is authorized and directed, upon written request of the Social Security Board, to make certification to it with respect to any matter determinable for the Board by the War Shipping Administrator under this subsection, which the Board finds necessary in administering this title.

(4) This subsection shall be effective as of September 30, 1941. (As retroactively added by section 1 (b) (2) of the Act of March 24, 1943, 57 Stat. 47, as amended by the Act approved April 4, 1944, 58 Stat. 188.)

SECTION 1 (a) OF THE ACT OF MARCH 24, 1943 (57 STAT. 45)

* * * officers and members of crews (hereinafter referred to as "seamen") employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act, as amended by subsection (b) (2) and (3) of this section; * * * have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. * * * Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seaman were employed on a privately owned and operated American vessel. * * * Rights of any seaman under the Social Security Act, as amended by subsection (b) (2) and (3), and claims therefor shall be governed solely by the provisions of such act, so amended.

§ 403.803 *Employment after December 31, 1939*—(a) *In general.* Whether services performed on or after January 1, 1940, constitute employment is determined under section 209 (b) of the act, that is, section 209 (b) as amended, effective January 1, 1940, by section 201 of the Social Security Act Amendments of 1939, and under section 209 (o) of the act, as amended, effective on and after October 1, 1941. This section of the regulations in this part, §§ 403.804 and 403.805 (relating to who are employees and employers) § 403.806 (relating to excepted services in general), § 403.807 (relating to included and excluded services), and §§ 403.808 to 403.826a, inclusive (relating to the several classes of excepted services) apply with respect only to services performed on or after January 1, 1940. (For provisions relating to the circumstances under which services which do not constitute employment are nevertheless deemed to be employment, and relating to the circumstances under which services which constitute employment are nevertheless deemed not to be employment, see § 403.807. For provisions relating to services performed prior to January 1, 1940, see § 403.802.

(b) *Services performed within the United States.* Services performed on or after January 1, 1940, within the United States, that is, within any of the several States, the District of Columbia, or the Territory of Alaska or Hawaii, by an employee for the person employing him, unless specifically excepted by section 209 (b) or (o) of the act, constitute employment within the meaning of the act. Services performed outside the United States, that is, outside the several States, the District of Columbia, and the Territories of Alaska and Hawaii (except certain services performed on or in connection with an American vessel, and except certain services performed as an employee of the United States on or in connection with a vessel by an officer or member of the crew—see paragraphs (c) and (d) of this section), do not constitute employment.

With respect to services performed within the United States, the place where the contract of service is entered into and the citizenship or residence of the employee or of the person employing him are immaterial. Thus, the employee and the person employing him may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract actually performs services within the United States, there may be to that extent employment within the meaning of the act.

(c) *Services performed outside the United States, other than as an employee of the United States.* Services performed on or after January 1, 1940, by an employee for the person employing him "on or in connection with" an American vessel outside the United States constitute employment provided:

(1) The employee is also employed "on and in connection with" such vessel when outside the United States; and

(2) The services are performed under a contract of service, between the employee and the person employing him, which is entered into within the United States, or during the performance of which the vessel touches at a port within the United States; and

(3) The services are not excepted under section 209 (b) of the act. (See particularly § 403.825, relating to fishing.)

An employee performs services on and in connection with the vessel if he performs services on the vessel which are also in connection with the vessel. Services performed on the vessel as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Services may be performed on the vessel, however, which have no connection with it, as in the case of services performed by an employee while on the vessel merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on the vessel are not in connection with the vessel.

If services are performed by an employee "on and in connection with" an American vessel when outside the United States and conditions provided in subparagraphs (2) and (3) of this paragraph are met, then the services of that employee performed on or in connection with the vessel constitute employment. The expression "on or in connection with" refers not only to services performed on the vessel but also to services connected with the vessel which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

Services performed by a member of the crew or other employee whose contract of service is not entered into within the United States, and during the performance of which the vessel does not touch at a port within the United States, do not constitute employment, notwithstanding similar services performed by others on or in connection with the vessel constitute employment.

The word "vessel" includes every description of watercraft, or other contrivance, used as a means of transportation on water. It does not include any type of aircraft.

The term "American vessel" means any vessel which is documented (that is, registered, enrolled, or licensed) or numbered in conformity with the laws of the United States. It also includes any vessel which is neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if the crew of such vessel is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State (including the District of Columbia or the Territories of Alaska or Hawaii).

With respect to services performed outside the United States, the citizenship or residence of the employee is immaterial, and the citizenship or residence of the person employing him is material only in case it has a bearing in determining whether a vessel is an American vessel.

This paragraph does not apply with respect to services which constitute employment by reason of section 209 (o) of the act (see paragraph (d) of this section).

(d) *Wartime maritime services in the employ of the United States.* Services performed, either within or outside the United States, by an officer or member of the crew of any vessel, as an employee of the United States, constitute employment if performed on or after October 1, 1941, and prior to the termination of title I of the First War Powers Act, 1941 (i. e., six months after termination of World War II, or such earlier time as the Congress by concurrent resolution, or the President, may designate) *Provided,*

(1) The employee is so employed through the War Shipping Administration or, as respects services performed before February 11, 1942, through the United States Maritime Commission; and

(2) The services are performed "on or in connection with" such vessel; and

(3) Such vessel, if documented under the laws of a foreign country, is not bareboat chartered to the War Shipping Administration; and

(4) The services are performed under a contract of service which is entered into

within the United States or during the performance of which the vessel touches at a port within the United States.

The expression "on or in connection with" refers not only to services performed on the vessel but also to services connected with the vessel which are not actually performed on it (for example, shore services performed as officers or members of the crew)

Services performed by an officer or member of the crew whose contract of service is not entered into within the United States, and during the performance of which the vessel does not touch at a port within the United States, do not constitute employment, notwithstanding similar services performed by others on or in connection with the vessel may constitute employment.

The word "vessel" shall have the meaning assigned to it in paragraph (c) of this section.

The citizenship or residence of the employee is immaterial.

In making decisions (see §§ 403.706 to 403.711a, inclusive) the Administration will accept as conclusive upon it final determinations of the Administrator, War Shipping Administration, and his designated agents, under section 209 (o) of the act, as to whether an individual has performed services, described herein, which are employment by reason of such section, or as to the periods of such services.

§ 403.804 *Who are employees.* Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation, but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act. (See § 403.803.)

§ 403.805 *Who are employers.* Every person is an employer if he employs one or more employees. Neither the number of employees employed, nor the period during which any such employee is employed is material.

An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

Although a person may be an employer under this section, services performed in his employ may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act (see § 403.803)

SECTION 209 (b) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

* * * * *

§ 403.806 *Excepted services in general.* Except as provided by section 209 (o) of the act (see paragraph (d) of § 403.803) services performed on or after January 1, 1940, by an employee for the person employing him do not constitute employment under title II of the act if they are specifically excepted by any of the numbered paragraphs of section 209 (b) of the act; that is, section 209 (b) as amended, effective January 1, 1940, by section 201 of the Social Security Act Amendments of 1939. Such services do not constitute employment under Title II of the act even though they are performed within the United States or are performed outside the United States on or in connection with an American vessel.

The exception attaches to the services performed by the employee and not to the employee as an individual; that is, the exception applies only to the services rendered by the employee in an excepted class.

EXAMPLE: A is an individual who is employed part time by B to perform services which constitute "agricultural labor" (see § 403.808). A is also employed by C part time to perform services as a grocery clerk in a store owned by him. While the services performed in the employ of B are excepted, the exception does not embrace the services performed by A in the employ of C and such services constitute employment.

This section, and the sections which follow it relating to included and excluded services and the several classes of excepted services, apply with respect only to services performed on or after January 1, 1940 (see § 403.803 (a)) (For provisions relating to the circumstances under which services which are excepted are nevertheless deemed to be employment, and relating to the circumstances under which services which are not excepted are nevertheless deemed not to be employment (see § 403.807. For provisions relating to services performed prior to January 1, 1940 see § 403.802.)

SECTION 209 (c) OF THE ACT

If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (b).

§ 403.807 *Included and excluded services.* If a portion of the services performed by an employee for the person employing him during a pay period constitutes employment, and the remainder does not constitute employment, all the services of the employee during the period shall be treated alike, that is, all as included or as excluded. The time during which the employee performs services which under section 209 (b) or (o) of the act constitute employment, and the time during which he performs services which under such section do not constitute employment, within the pay period, determine whether all the services during the pay period shall be deemed to be included or excluded.

If one-half or more of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment, then all the services of that employee for that person in that pay period shall be deemed to be employment.

If less than one-half of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment,

then none of the services of that employee for that person in that pay period shall be deemed to be employment.

Example 1: Employee A is employed by B who operates a farm and a store. A's services on the farm are such that they are excepted as agricultural labor and do not constitute employment, and his services in the store constitute employment. He is paid at the end of each month. During a particular month A works 120 hours on the farm and 80 hours in the store. None of A's services during the month are deemed to be employment, since less than one-half of his services during the month constitutes employment.

During another month A works 75 hours on the farm and 120 hours in the store. All of A's services during the month are deemed to be employment, since one-half or more of his services during the month constitutes employment.

Example 2: Employee C is employed as a maid by D, a medical doctor, whose home and office are located in the same building. C's services in the home are excepted as domestic service and do not constitute employment, and her services in the office constitute employment. She is paid each week. During a particular week C works 20 hours in the home and 20 hours in the office. All of C's services during that week are deemed to be employment, since one-half or more of her services during the week constitutes employment.

During another week C works 22 hours in the home and 15 hours in the office. None of C's services during that week are deemed to be employment, since less than one-half of her services during the week constitutes employment.

For purposes of this section, a "pay period" is the period (of not more than 31 consecutive calendar days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. Thus, if the periods for which payments of remuneration are made to the employee by such person are of uniform duration, each such period constitutes a "pay period." If, however, the periods occasionally vary in duration, the "pay period" is the period for which a payment of remuneration is ordinarily made to the employee by such person, even though that period does not coincide with the actual period for which a particular payment of remuneration is made. For example, if a person ordinarily pays a particular employee for each calendar week at the end of the week, but the employee receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the "pay period" is still the calendar week; or if, instead, that employee is sent on a trip by such person and receives at the end of the third week a single remuneration payment for 3 weeks' services, the "pay period" is still the calendar week.

If there is only one period (and such period does not exceed 31 consecutive calendar days) for which a payment of remuneration is made to the employee by the person employing him, such period is deemed to be a "pay period" for purposes of this section.

The rules set forth in this section do not apply (a) with respect to any services performed by the employee for the person employing him if the periods for which such person makes payments of remuneration to the employee vary to the extent that there is no period "for which a payment of remuneration is ordinarily made to the employee," or (b) with respect to any services performed by the employee for the person employing him if the period for which a payment of remuneration is ordinarily made to the employee by such person exceeds 31 consecutive calendar days, or (c) with respect to any service performed by the employee for the person employing him during a pay period if any of such service is excepted by section 209 (b) (9) of the act (see § 403.816 of the regulations in this part)

If during any period for which a person makes a payment of remuneration to an employee only a portion of the employee's services constitutes employment under section 209 (b) of the act, but the rules prescribed herein are not applicable, such portion of the services is employment.

SECTION (b) (1) OF THE ACT

The term "employment" means * * * any service of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(1) Agricultural labor (as defined in subsection (l) of this section);

SECTION 209 (l) OF THE ACT

The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple sirup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing, animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

SECTION 15 (g) OF THE AGRICULTURAL MARKETING ACT, AS AMENDED

(46 STAT. 1550; 12 U. S. C. 1141 j (g))

As used in this Act, the term "agricultural commodity" includes, in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923.

SECTION 2 (c) AND (h) OF THE NAVAL STORES ACT

(42 STAT. 1346; 7 U. S. C. 92 (c), (h))

* * * * * *

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

* * * * * *

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

§ 403.803. *Agricultural labor*—(a) *In general.* Services performed by an employee for the person employing him which constitute "agricultural labor" as defined in section 209 (l) of the act are excepted. The term as so defined includes services of the character described in paragraphs (b), (c) (d) and (e) of this section.

In general, however, the term does not include services performed in connection with forestry, lumbering, or landscaping.

(b) *Services described in section 209 (l) (1) of the act.* Services performed on a farm by an employee of any person in connection with any of the following activities are excepted as agricultural labor:

(1) The cultivation of the soil;

(2) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(3) The raising or harvesting of any other agricultural or horticultural commodity.

The term "farm" as used in this and succeeding paragraphs of this section includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets), do not constitute "farms."

(c) *Services described in section 209 (l) (2) of the act.* The following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms are excepted as agricultural labor, provided the major part of such services is performed on a farm:

(1) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(2) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

The services described in subparagraph (1) of this paragraph may in-

clude, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semiskilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

Since the services described in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(d) *Services described in section 209 (l) (3) of the act.* Services performed by an employee in the employ of any person in connection with any of the following operations are excepted as agricultural labor without regard to the place where such services are performed:

(1) The ginning of cotton;

(2) The hatching of poultry;

(3) The raising or harvesting of mushrooms;

(4) The operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying or storing water for farming purposes;

(5) The production or harvesting of maple sap or the processing of maple sap into maple sirup or maple sugar (but not the subsequent blending or other processing of such sirup or sugar with other products), or

(6) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(e) *Services described in section 209 (l) (4) of the act.* (1) Services performed by an employee in the employ of a farmer or a farmers' cooperative organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity, other than fruits and vegetables (see subparagraph (2) of this paragraph) produced by such farmer or farmer-members of such organization or group of farmers are excepted, provided such services are performed as an incident to ordinary farming operations.

Generally services are performed "as an incident to ordinary farming operations" within the meaning of this paragraph if they are services of the character ordinarily performed by the employees of a farmer or of a farmers' cooperative organization or group as a prerequisite to the marketing, in its unmanufactured state, of any agricultural or horticultural commodity produced by such farmer or by the members of such farmers' organization or group. Services performed by employees of such farmer or farmers' organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of commodities produced by persons other than such farmer or members of such farmers' organization or group are not performed "as an incident to ordinary farming operations."

(2) Services performed by an employee in the employ of any person in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of fruits and vegetables, whether or not of a perishable nature, are excepted as agricultural labor, provided such services are performed as an incident to the preparation of such fruits and vegetables for market. For example, if services in the sorting, grading, or storing of fruits, or in the cleaning of beans, are performed as an incident to their preparation for market, such services may be excepted whether performed in the employ of a farmer, a farmers' cooperative, or a commercial handler of such commodities.

(3) The services described in subparagraphs (1) and (2) of this paragraph, do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the excepted service described in such subparagraphs must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activity. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of paragraph (c) of this section.

SECTION 209 (b) (2) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

§ 403.809 *Domestic service.* Services of a household nature performed by an employee in or about the private home of the person by whom he is employed, or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed, are included within the above exception.

A private home is the fixed place of abode of an individual or family.

A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the services performed therein are not excepted. Likewise, if the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purpose, the services performed therein are not within the exception.

In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, maids, butlers, laundresses, furnacemen, waiters and housemothers.

The services above enumerated are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs) hotels, or commercial offices or establishments.

Services performed as a private secretary, even though performed in the employer's home, are not within the exception.

SECTION 209 (b) (3) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(3) Casual labor not in the course of the employer's trade or business;

§ 403.810 *Casual labor not in the course of employer's trade or business.* The term "casual labor" includes labor which is occasional, incidental, or irregular.

The expression "not in the course of the employer's trade or business" includes labor that does not promote or advance the trade or business of the employer.

Thus, labor which is occasional, incidental, or irregular, and does not promote or advance the employer's trade or business is excepted.

Example 1: A's business is that of operating a sawmill. He employs B, a carpenter, at an hourly wage to repair his home. B works irregularly and spends the greater part of 2 days in completing the work. Since B's labor is casual and is not in the course of A's trade or business, such services are excepted.

Casual labor, that is, labor which is occasional, incidental, or irregular, but which is in the course of the employer's trade or business, does not come within the above exception.

Example 2: C's business is that of operating a sawmill. He employs D for two hours, at an hourly wage, to remove sawdust from his mill. D's labor is casual since it is occasional, incidental, or irregular, but it is in the course of C's trade or business and is not excepted.

Example 3: E is engaged in the business of operating a department store. He employs additional clerks for short periods. While the services of the clerks may be casual, they are in the course of the employer's trade or business and, therefore, not excepted.

Casual labor performed for a corporation does not come within this exception.

SECTION 209 (b) (4) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for

the person employing him * * * except—

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

§ 403.811 *Family employment.* Certain services are excepted because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(a) Services performed by an individual in the employ of his or her spouse;

(b) Services performed by a father or mother in the employ of his or her son or daughter; and

(c) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

Under paragraphs (a) and (b) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (c) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that such son or daughter is under the age of 21.

Services performed in the employ of a corporation are not within the exception. Services performed in the employ of a partnership are not within the exception unless the requisite family relationship exists between the employee and each of the individual partners comprising the partnership.

SECTION 209 (b) (5) OF THE ACT

The term "employment" means * * * any service of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(5) Service performed [on] or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;

§ 403.812 *Vessel not an American vessel.* Certain services performed within the United States "on or in connection with" a vessel not an American vessel are excepted. In order to be excepted, the services must be performed by an employee who is also employed "on and in connection with" the vessel when outside the United States.

An employee performs services on and in connection with the vessel if he performs services on the vessel when outside the United States which are also in connection with the vessel. Services performed on the vessel outside the United States as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Services may be performed on the vessel, however, which have no connection with it, as in the case of services performed by an employee while on the vessel merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

The expression "on or in connection with" refers not only to services performed on the vessel but also to services connected with the vessel which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel.)

The citizenship or residence of the employee and the place where the contract of service is entered into are immaterial for purposes of this exception, and the citizenship or residence of the person employing him is material only in case it has a bearing in determining whether the vessel is an American vessel. (For definitions of "vessel" and "American vessel," see § 403.803 (c).)

Since the only services performed outside the United States which constitute employment are those described in § 403.803 (c) (relating to services performed outside the United States on or in connection with an American vessel) and § 403.803 (d) (relating to wartime maritime services in the employ of the United States) services performed outside the United States on or in connection with a vessel not an American vessel in any event do not constitute employment unless they are employment by reason of section 209 (o) of the act (see § 403.803 (d)

SECTION 209 (b) (6) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(6) Service performed in the employ of the United States Government, or of an instrumentality of the United States which is (A) wholly owned by the United States, or (B) exempt from the tax imposed by section 1410 of the Internal Revenue Code by virtue of any other provision of law;

§ 403.813 *United States and instrumentalities thereof.* Services performed in the employ of the United States Government (except as provided in section 209 (o) of the act, as to which (see § 403.803 (d)) are excepted. Services performed in the employ of an instrumentality of the United States are also excepted if the instrumentality is either wholly owned by the United States, or exempt from the tax imposed on employers by section 1410 of the Federal Insurance Contributions Act (subchapter A of Chapter 9 of the Internal Revenue Code) by virtue of any other provision of law.

Services performed in the employ of an instrumentality of the United States which is neither wholly owned by the United States nor exempt from the tax imposed on employers by such section 1410 of the Federal Insurance Contributions Act by virtue of any other provision of law are not within the exception.

Services performed in the employ of a national bank or a State member bank of the Federal Reserve System, for example, are not within the exception.

SECTION 209 (b) (7) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 1410 of the Internal Revenue Code;

§ 403.814 *States and their political subdivisions and instrumentalities.* Services performed in the employ of any State, or of any political subdivision thereof, are excepted. Services performed in the employ of an instrumentality of 1 or more States or political subdivisions thereof are excepted if the instrumentality is wholly owned by 1 or more of the foregoing. Services performed in the employ of an instrumentality of 1 or more of the several States or political subdivisions thereof which is not wholly owned by 1 or more of the foregoing are excepted only to the extent that the instrumentality is with respect to such services immune under the Constitution of the United States from the tax imposed on employers by section 1410 of the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code)

The term "State" includes the District of Columbia and the Territories of Alaska and Hawaii.

SECTION 209 (b) (8) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

§ 403.815 *Religious, charitable, scientific, literary, and educational organizations and community chests.* Services performed by an employee in the employ of an organization of the class specified in section 209 (b) (8) of the act are excepted.

For purpose of this exception the nature of the service is immaterial; the statutory test is the character of the organization for which the services are performed.

In all cases, in order for an organization to be within the statutory classification, the organization must meet three tests:

(1) It must be organized and operated exclusively for one or more of the specified purposes;

(2) Its net income must not inure in whole or in part to the benefit of private shareholders or individuals; and

(3) It must not by any substantial part of its activities attempt to influence legislation by propaganda or otherwise.

Corporations or other institutions organized and operated exclusively for charitable purposes comprise, in general, organizations for the relief of the poor. The fact that an organization established for the relief of indigent persons may receive voluntary contributions from the

persons intended to be relieved will not necessarily affect its status under the law.

An educational organization within the meaning of section 209 (b) (8) of the act is one designed primarily for the improvement or development of the capabilities of the individual but, under exceptional circumstances, may include an association whose sole purpose is the instruction of the public, or an association whose primary purpose is to give lectures on subjects useful to the individual and beneficial to the community, even though an association of either class has incidental amusement features. An organization formed, or availed of, to disseminate controversial or partisan propaganda is not an educational organization. However, the publication of books or the giving of lectures advocating a cause of a controversial nature, shall not of itself be sufficient to take an organization out of the exemption, if carrying on propaganda, or otherwise attempting, to influence legislation form no substantial part of its activities, its principal purpose and substantially all of its activities being clearly of a nonpartisan, noncontroversial, and educational nature.

Since a corporation or other institution to be within the prescribed class must be organized and operated exclusively for one or more of the specified purposes, an organization which has certain religious purposes and which also manufactures and sells articles to the public for profit is not within the statutory class even though its property is held in common and its profits do not inure to the benefit of individual members of the organization.

An organization otherwise within the statutory class does not lose its status as such by receiving income such as rent, dividends, and interest from investments, provided such income is devoted exclusively to one or more of the specified purposes.

SECTION 209 (b) (9) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(9) Service performed by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code;

SECTION 1532 OF THE INTERNAL REVENUE CODE
DEFINITIONS

As used in this subchapter [subchapter B, chapter 9, Internal Revenue Code]—

(a) *Employer.* The term "employer" means any carrier (as defined in subsection (h) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided; however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities. (As retroactively amended by section 1 of the Act approved August 13, 1940, 54 Stat. 785.)

(b) *Employee.* The term "employee" means any person in the service of one or more employers for compensation: *Provided, however,* That the term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual is in the employment relation to a carrier if he is on furlough, subject to call for service within or outside the United States and ready and willing to serve, or on leave of absence, or absent on account of sickness or disability; all in accordance with the established rules and practices in effect on the carrier: *Provided, however,* That an individual shall not be deemed to be in the employment relation to a carrier unless during the last pay-roll period in which he rendered service to it he was with respect to that service in the service of an employer in accordance with subsection (d) of this section.

The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple. (As retroactively amended by section 3 of the Joint Resolution approved June 11, 1940, 54 Stat. 264, and section 3 of the Act approved August 13, 1940, 54 Stat. 786.)

(c) *Employee representative.* The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, 44 Stat. 577 (U. S. C., Title 45, c. 18), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) *Service.* An individual is in the service of an employer whether his service is rendered within or without the United States if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, which service he renders for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to subsection (c) of section 1 of the Railroad Retirement Act of 1937 shall be applicable: *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date. (As retroactively amended by section 3 of the Joint Resolution approved June 11, 1940, 54 Stat. 264, and by section 14 of the Act approved April 8, 1942, 56 Stat. 209.)

(e) *Compensation.* The term "compensation" means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 1500. Compensation which is earned during the period for which the Commissioner shall require a return of taxes under this subchapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. * * *

(f) *United States.* The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(g) *Company.* The term "company" includes corporations, associations, and joint-stock companies.

(h) *Carrier.* The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to Part I of the Interstate Commerce Act.

* * * * *

SECTION 3 OF JOINT RESOLUTION APPROVED JUNE 11, 1940 (54 STAT. 264)

* * * * *

The amendments in this section shall operate in the same manner and have the same effect as if they had been part of the Internal Revenue Code when that code was enacted on February 10, 1939, * * *

SECTIONS 4 (a) AND (c) AND 6 OF THE ACT APPROVED AUGUST 13, 1940 (54 STAT. 786, 787)

SEC. 4. (a) The laws hereby expressly amended, the Social Security Act, approved August 14, 1935, and all amendments thereto, shall operate as if each amendment herein contained had been enacted as a part of the law it amends, at the time of the original enactment of such law.

(c) Nothing contained in this act shall operate (1) to affect any annuity, pension, or death benefit granted under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, prior to the date of enactment of this act, or (2) to include any of the services on the basis of which any such annuity or pension was granted, as employment within the meaning of section 210 (b) of the Social Security Act or section 209 (b) of such act, as amended. * * *

SEC. 6. Nothing contained in this act, nor the action of Congress in adopting it, shall be taken or considered as affecting the question of what carriers, companies, or individuals, other than those in this act specifically provided for, are included in or excluded from the provisions of the various laws to which this act is an amendment.

SECTION 14 OF THE ACT APPROVED APRIL 8, 1942 (56 STAT. 209)

* * * * * *

The amendment in this section shall operate in the same manner and have the same effect as if they had been part of the Internal Revenue Code when that code was enacted February 10, 1939, * * *

§ 403.816 *Railroad industry; employees and employee representatives under section 1532 of the Internal Revenue Code, as amended.* Services performed by an individual as an "employee" or as an "employee representative," as those terms are defined in section 1532 of subchapter B of chapter 9 of the Internal Revenue Code (which subchapter corresponds to and, effective April 1, 1939, superseded the Carriers Taxing Act of 1937) are excepted. Services by an individual in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple, upon the basis of which any annuity or pension was granted under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937 prior to August 13, 1940, are also excepted.

SECTION 209 (b) (10 (A) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Internal Revenue Code, if—

(i) The remuneration for such service does not exceed $45, or

(ii) Such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or

(iii) Such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

SECTION 101 OF THE INTERNAL REVENUE CODE

EXEMPTIONS FROM TAX ON CORPORATIONS

The following organizations shall be exempt from taxation under this chapter—

(1) Labor * * * organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members, and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

* * * * *

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including inter-insurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses [for amendment to section 101 (11) by Revenue Act of 1942, see below];

(12) Farmers', fruit growers', or like associations organized and operating on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(15) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such act, as amended and supplemented, such corporations are exempt from Federal income taxes;

* * * * *

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;

(18) Religious or apostolic associations or corporations, if such associations or corpora-

tions have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

* * * * *

SECTION 165 (a) OF THE REVENUE ACT OF 1942, APPROVED OCTOBER 21, 1942 (56 STAT. 872)

Exempt companies. Section 101 (11) is amended to read as follows:

(11) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) does not exceed $75,000;

SECTION 101 OF THE REVENUE ACT OF 1942, APPROVED OCTOBER 21, 1942 (56 STAT. 802)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

§ 403.817 *Organizations exempt from income tax*—(a) *In general.* This section deals with the exception of services performed in the employ of certain organizations exempt from income tax under section 101 of the Internal Revenue Code. If the services meet the tests set forth in paragraph (b) (c) or (d) of this section, such services are excepted.

(See also § 403.815 for provisions relating to the exception of services performed in the employ of religious, charitable, scientific, literary, and educational organizations and community chests of the type described in section 101 (6) of the Internal Revenue Code; § 403.818 for provisions relating to the exception of services performed in the employ of agricultural and horticultural organizations exempt from income tax under section 101 (1) of the Internal Revenue Code; § 403.819 for provisions relating to the exception of services performed in the employ of voluntary employees' beneficiary associations of the type described in section 101 (16) of the Internal Revenue Code; and § 403.820 for provisions relating to the exception of services in the employ of Federal employees' beneficiary associations of the type described in section 101 (19) of the Internal Revenue Code. Since services performed in the employ of such organizations are excepted from employment regardless of whether they meet the tests set forth in this section, provisions of section 101 of the Internal Revenue. Code relating to them have been omitted from the quotation of section 101 preceding this section. An amendment to section 101 (16) of the Internal Revenue Code, effectuated by section 137 of the Revenue Act of 1942 and broadening the exemption from income tax, has likewise been omitted from such quotation because inapplicable to the reference to section 101 of the Internal Revenue Code in section 209 (b) (10) (A) of the act.)

(b) *Remuneration not in excess of $45 for calendar quarter* Services performed by an employee in a calendar quarter in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code are excepted, if the remuneration for the services does not exceed $45. The exception applies separately with respect to each organization for which the employee renders services in a calendar quarter. A calendar quarter is a period of three calendar months ending on March 31, June 30, September 30, or December 31. The type of services performed by the employee and the place where the services are performed are immaterial; the statutory tests are the character of the organization in whose employ the services are performed and the amount of the remuneration for services performed by the employee in the calendar quarter.

Example 1. X is a local lodge of a fraternal organization and is exempt from income tax under section 101 (3) of the Internal Revenue Code. X has two paid employees, A, who serves exclusively as recording secretary for the lodge, and B, who performs services for the lodge as janitor of its club house. For services performed during the first calendar quarter of 1940 (that is, January 1, 1940, through March 31, 1940, both dates inclusive) A earns a total of $30. For services performed during the same calendar quarter B earns $180. Since the remuneration for the services performed by A during such quarter does not exceed $45, all of such services are excepted. Since the remuneration for the services performed by B during such quarter, however, does exceed $45, none of such services are excepted.

Example 2: The facts are the same as in example 1, above, except that on April 1, 1940, A's salary is increased and, for services performed during the calendar quarter beginning on that date (that is, April 1, 1940, through June 30, 1940, both dates inclusive), A earns a total of $60. Although all of the services performed by A during the first quarter were excepted, none of A's services performed during the second quarter are excepted since the remuneration for such services exceeds $45.

Example 3: The facts are the same as in example 1, above, except that A earns $120 for services performed during the year 1940, and such amount is paid to him in a lump sum at the end of the year. The services performed by A in any calendar quarter during the year are excepted if the portion of the $120 attributable to services performed in that quarter does not exceed $45. If, however, the portion of the $120 attributable to services performed in any calendar quarter during the year does exceed $45, the services during that quarter are not excepted.

(c) *Collection of dues or premiums for fraternal beneficiary societies, and ritualistic services in connection with such societies.* The following services performed by an employee in the employ of a fraternal beneficiary society, order, or association exempt from income tax under section 101 of the Internal Revenue Code are excepted:

(1) Services performed away from the home office of such a society, order, or association in connection with the collection of dues or premiums for such society, order, or association; and

(2) Ritualistic services (wherever performed) in connection with such a society, order, or association.

For purposes of this paragraph the amount of the remuneration for services performed by the employee in the calendar quarter is immaterial; the statutory tests are the character of the organization in whose employ the services are performed, the type of services, and, in the case of collection of dues or premiums, the place where the services are performed.

(d) *Students employed by organizations exempt from income tax.* Services performed in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code by a student who is enrolled and is regularly attending classes at a school, college, or university are excepted. For purposes of this paragraph, the amount of remuneration for services performed by the employee in the calendar quarter, the type of services, and the place where such services are performed are immaterial; the statutory tests are the character of the organization in whose employ the services are performed and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university.

The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(For provisions relating to services performed by a student enrolled and regularly attending classes at a school, college, or university not exempt from income tax in the employ of such school, college, or university, see § 403.821.)

SECTION 209 (b) (10) (B) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(10) (B) Service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Internal Revenue Code;

SECTION 101 (1) OF THE INTERNAL REVENUE CODE

EXEMPTIONS FROM TAX ON CORPORATIONS

The following organizations shall be exempt from taxation under this chapter—

(1) * * * agricultural, or horticultural organizations;

§ 403.818 *Agricultural and horticultural organizations exempt from income tax.* Services performed by an employee in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Internal Revenue Code are excepted.

For purposes of this exception, the type of services performed by the employee, the amount of remuneration for such services, and the place where such services are performed are immaterial; the statutory test is the character of the organization in whose employ the services are performed.

SECTION 209 (b) (10) (C) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(10) (C) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) 85 per centum or more of the income consists of amounts collected from members

for the sole purpose of making such payments and meeting expenses;

§ 403.819 *Voluntary employees' beneficiary associations.* Services performed by an employee in the employ of an organization of the character described in section 209 (b) (10) (C) of the act are excepted.

For purposes of this exception, the type of services performed by the employee, the amount of remuneration for such services, and the place where such services are performed are immaterial; the statutory test is the character of the organization in whose employ the services are performed.

SECTION 209 (b) (10) (D) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(10) (D) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

§ 403.820 *Federal employees' beneficiary associations.* Services performed by an employee in the employ of an organization of the character described in section 209 (b) (10) (D) of the act are excepted.

For purposes of this exception, the type of services performed by the employee, the amount of remuneration for such services, and the place where such services are performed are immaterial; the statutory test is the character of the organization in whose employ the services are performed.

SECTION 209 (b) (10) (E) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(10) (E) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101, of the Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed $45 (exclusive of room, board, and tuition);

§ 403.821 *Students employed by schools, colleges, or universities not exempt from income tax.* Services performed in a calendar quarter by a student in the employ of a school, college, or university not exempt from income tax under section 101 of the Internal Revenue Code are excepted, provided:

(a) The services are performed by a student who is enrolled and is regularly attending classes at such school, college, or university; and

(b) The remuneration for such services performed in such calendar quarter does not exceed $45, exclusive of room, board, and tuition furnished by the school, college, or university.

A calendar quarter is a period of three calendar months ending on March 31, June 30, September 30, or December 31.

For purposes of this exception, the type of services performed by the employee and the place where the services are performed are immaterial; the statutory tests are the character of the organization in whose employ the services are performed, the amount of remuneration for services performed by the employee in the calendar quarter and the status of the employee as a student enrolled and regularly attending classes at the school, college, or university in whose employ he performs the services.

The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(For provisions relating to services performed by a student in the employ of an organization exempt from income tax, see § 403.817 (d).)

SECTION 209 (b) (11) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

§ 403.822 *Foreign governments.* Services performed by an employee in the employ of a foreign government are excepted. The exception includes not only services performed by ambassadors, ministers, and other diplomatic officers and employees but also services performed as a consular or other officer or employee of a foreign government, or as a nondiplomatic representative thereof.

For purposes of this exception, the citizenship or residence of the employee is immaterial. It is also immaterial whether the foreign government grants an equivalent exemption with respect to similar services performed in the foreign country by citizens of the United States.

SECTION 209 (b) (12) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

§ 403.823 *Wholly owned instrumentalities of a foreign government.* Services performed by an employee in the employ of certain instrumentalities of a foreign government are excepted. The exception includes all services performed in the employ of an instrumentality of the government of a foreign country, *Provided:*

(1) The instrumentality is wholly owned by the foreign government;

(2) The services are of a character similar to those performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(3) The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

For purposes of this exception, the citizenship or residence of the employee is immaterial.

SECTION 209 (b) (13) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

§ 403.824 *Student nurses and hospital internes.* Services performed as a student nurse in the employ of a hospital or a nurses' training school are excepted provided the student nurse is enrolled and regularly attending classes in a nurses' training school, and such nurses' training school is chartered or approved pursuant to State law.

Services performed as an interne (as distinguished from a resident doctor) in the employ of a hospital are excepted, provided the interne has completed a 4 years' course in a medical school chartered or approved pursuant to State law.

SECTION 209 (b) (14) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(14) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States); or

§ 403.825 *Fishing*—(a) *In general.* Subject to the limitations prescribed in paragraphs (b) and (c) of this section, the services described in this paragraph are excepted. Services performed by an individual in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish (for example, oysters, clams, and mussels), crustacea (for example, lobsters, crabs, and shrimps),

sponges, seaweeds, or other aquatic forms of animal and vegetable life are excepted. The exception extends to services performed as an officer or member of the crew of a vessel while the vessel is engaged in any such activity whether or not the officer or member of the crew is himself so engaged. In the case of an individual who is engaged in any such activity in the employ of any person, the services performed, by such individual in the employ of such person, as an ordinary incident to any such activity are also excepted. Similarly, for example, the shore services of an officer or member of the crew of a vessel engaged in any such activity are excepted if such services are an ordinary incident to any such activity. Services performed as an ordinary incident to any such activity may include, for example, services performed in such cleaning, icing, and packing of fish as are necessary for the immediate preservation of the catch.

(b) *Salmon and halibut fishing.* Services performed in connection with the catching or taking of salmon or halibut, for commercial purposes, are not within the exception. Thus, neither the services of an officer or member of the crew of a vessel (irrespective of its tonnage) which is engaged in the catching or taking of salmon or halibut, for commercial purposes, nor the services of any other individual in connection with such activity, are within the exception.

(c) *Vessels of more than 10 net tons.* Services described in paragraph (a) performed on or in connection with a vessel of more than 10 net tons are not within the exception. For purposes of the exception, the tonnage of the vessel shall be determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

SECTION 209 (b) (15) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * * except—

(15) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

§ 403.826 *Delivery and distribution of newspapers and shopping news.* Services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, are excepted. Thus, the services performed by an employee under the age of 18 in making house-to-house delivery of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted.

The exception continues only during the time that the employee is under the age of 18.

SECTION 209 (b) (16) OF THE ACT

The term "employment" means * * * any service, of whatever nature, * * * by an employee for the person employing him * * * except:

(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act. (As amended effective January 1, 1946, by section 5 (a) of the Act approved December 29, 1945, 59 Stat. 669.)

SECTION 1 OF THE ACT APPROVED DECEMBER 29, 1945 (59 STAT. 669)

For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

§ 403.826a *International organization.* Services performed after December 31, 1945, by an employee in the employ of an organization of the class specified in section 209 (b) (16) of the act are excepted. For an organization to be within the statutory classification the following conditions must be met:

(a) It must be a public international organization in which the United States participates pursuant to treaty or authority of an act of Congress authorizing, or making an appropriation for, such participation;

(b) It must have been designated by executive order to be entitled to enjoy the privileges, exemptions, and immunities provided in the International Organizations Immunities Act;

(c) The designation must be in effect, and all conditions and limitations thereof must be met.

Such services will not be excepted if any of the foregoing conditions are not met. Nor will they be excepted after such designation is withheld or withdrawn by Executive order from the employing organization.

WAGES

SECTION 209 (a) OF THE ACT

The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year prior to 1940, is paid to such individual by such employer with respect to employment during such calendar year;

(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual with respect to employment during such calendar year;

(3) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(4) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code or (B) of any payment required from an employee under a State unemployment compensation law;

(5) Dismissal payments which the employer is not legally required to make; or

(6) Any remuneration paid to an individual prior to January 1, 1937.

SECTION 209 (o) (2), (3), AND (4) OF THE ACT

(2) The Social Security Board shall not make determinations as to whether an individual has performed services which are employment by reason of [paragraph 1 of] this subsection, or the periods of such services, or the amounts of remuneration for such services, or the periods in which or for which such remuneration was paid, but shall accept the determination with respect thereto of the Administrator, War Shipping Administration, and such agents as he may designate, as evidenced by returns filed by such Administrator as an employer pursuant to section 1426 (i) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator, War Shipping Administration, is authorized and directed, upon written request of the Social Security Board, to make certification to it with respect to any matter determinable for the Board by the War Shipping Administrator under this subsection, which the Board finds necessary in administering this title.

(4) This subsection shall be effective as of September 30, 1941. (As retroactively added by section 1 (b) (2) of the act of March 24, 1943, 57 Stat. 47, as amended by the act approved April 4, 1944, 58 Stat. 188.)

§ 403.827 *Wages*—(a) *In general.* Whether remuneration for employment constitutes wages shall be determined in accordance with this section of these regulations and § 403.828 (relating to exclusions from wages), except that any such determination with respect to remuneration for employment, paid after December 31, 1936, and prior to January 1, 1940, shall be made in accordance with the provisions of Regulations No. 2, unless such

regulations are inapplicable (as for example, to the extent that such determination involves the $3,000 limitation with respect to remuneration paid prior to January 1, 1940, for employment to be performed on or after such date; see § 403.828 (a) (2)).

The term "wages" means all remuneration for employment unless specifically excepted under section 209 (a) of the act (see § 403.828)

The name by which the remuneration for employment is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages within the meaning of the act if paid as compensation for employment.

The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually.

The medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example goods, lodging, food, or clothing. Remuneration paid in items other than cash shall be computed on the basis of the fair value of such items at the time of payment.

Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases) furnished or offered by an employer to his employees generally are not considered as remuneration for employment if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees. The term "facilities or privileges," however, does not ordinarily include the value of meals or lodging furnished, for example, to restaurant or hotel employees, or to seamen or other employees aboard vessels, since generally these items constitute an appreciable part of the total remuneration of such employees.

Remuneration for employment, unless such remuneration is specifically excepted under section 209 (a) of the act, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example: A is employed by B during the month of January 1940 in employment and is entitled to receive remuneration of $100 for the services performed for B, the employer, during the month. A leaves the employ of B at the close of business on January 31, 1940. On February 15, 1940 (when A is no longer an employee of B) B pays A the remuneration of $100 which was earned for the services performed in January. The $100 is wages within the meaning of the act.

(b) *Certain items included as wages*—(1) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(2) *Deductions by an employer from wages of an employee.* The amount of any tax which is required by section 1401 (a) of the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code) to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages, and is deemed to be paid to the employee as wages at the time that the deduction is made. Other amounts deducted from the wages of an employee by an employer also constitute wages paid to the employee at the time of deduction. It is immaterial that the act, or any act of Congress, or the law of any State, requires or permits such deduction and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

(c) *Determination of remuneration for certain wartime services by employees of the United States.* In making decisions (see §§ 403.706 to 403.711a, inclusive), the Social Security Administration will accept as conclusive upon it final determination of the Administrator, War Shipping Administration, and his designated agents, under section 209 (o) of the act, as to the amounts of remuneration for certain wartime services by employees of the United States which are employment by reason of such section (see § 403.803 (d)) or as to the periods in which or for which such remuneration was paid.

§ 403.828 *Exclusions from wages*—(a) (1) *$3,000 limitation with respect to remuneration paid in 1940 or thereafter for employment during a calendar year prior to 1940.* Under section 209 (a) (1) of the act, any remuneration paid by an employer to an employee in 1940 or thereafter for employment performed during any one calendar year after 1936 and prior to 1940, which is in excess of the first $3,000 of remuneration paid (whether before or after January 1, 1940) for employment performed during such year, is excluded. Thus, section 209 (a) (1) of the act excludes from wages such remuneration paid in 1940 or thereafter for employment performed during the calendar year 1937, 1938, or 1939, as is in excess of the first $3,000 of remuneration paid for employment performed during any single one of such years.

Example 1: Employee A, in 1939, was paid remuneration of $2,500 by employer B on account of $4,000 due him for employment during 1939. In 1940 A receives from employer B the balance of $1,500 due him for the employment during 1939. Only $500 of this $1,500 constitutes wages, the balance of $1,000 being an amount in excess of $3,000 with respect to employment during a single year (1939) prior to 1940 and thus excluded.

The limitation relates to the remuneration for employment performed by an employee for the same employer during any single one of the calendar years after 1936 and prior to 1940 and not to the amount of remuneration (irrespective of the year of employment) which is paid in any one year.

Example 2: Employee C, in 1939, was paid remuneration of $2,500 by employer D on account of $3,000 due him for employment during 1939. In 1940, C is paid by employer D the balance of $500 due him for employment during 1939 and also $3,000 for employment during 1940. None of such amount paid in 1940 is excluded, since the $500 paid in 1940 with respect to the employment during 1939 when added to the $2,500 already paid for employment during that year does not exceed $3,000.

The limitation applies separately with respect to each employer for whom the employee performed services during any one of the calendar years after 1936 and prior to 1940.

Example 3: Employee E, in 1939, was paid by employer F $3,000 on account of $4,000 due him for employment in the employ of F during that year, and also $2,000 by employer G on account of $3,000 due him for employment in the employ of G during the same year (1939). In 1940, E is paid the balance of $1,000 due him from each of such employers for the employment during 1939. The $1,000 paid in 1940 by employer F is excluded from wages, since $3,000 has already been paid to E by employer F for employment during 1939. The $1,000 paid to E in 1940 by employer G, however, is not excluded, since that amount when added to the $2,000 theretofore paid by employer G with respect to employment during 1939 does not exceed $3,000.

(2) *$3,000 limitation with respect to remuneration for employment during 1940 or thereafter.* Under section 209 (a) (2) of the act, remuneration paid to an employee (whether or not by one or more employers) for employment during any one calendar year after 1939 in excess of the first $3,000 paid to the employee, is excluded from "wages."

Example 1: Employee A in the calendar year 1940 is employed in employment by three separate employers, B, C, and D. In the year 1940 A is paid $2,000 by B for employment during such year in his employ, $3,000 by C for employment during such year in his employ, and $4,000 by D for employment during such year in his employ. Of the total remuneration of $9,000 with respect to employment during the calendar year 1940, only $3,000 constitutes wages. The remuneration paid to A in excess of $3,000 for employment during this year, that is, $6,000, is excluded and does not constitute wages.

Example 2: Employee E, in 1940, is paid $2,500 by employer F on account of $3,500 due him for employment during that year. In 1941 E is paid by employer F the balance of $1,000 due him for employment during the prior year (1940) and also $3,500 for employment during 1941. Of the total remuneration of $4,500 paid to E in 1941, only $3,500 is included in wages, that is, $3,000 (the maximum) with respect to employment during 1941 and $500 with respect to employment during 1940 (this $500 plus the $2,500 paid in 1940 with respect to employment during that year totals $3,000, the maximum wages which could be received by E with respect to employment during the calendar year 1940).

Example 3: Employee G, in 1939, is paid remuneration of $1,500 by employer H for services in employment to be performed in 1940. G performs the services for H in 1940 for which he was paid in 1939, and also performs services in employment in 1940 for employer I for which he is paid $2,500. Of the total remuneration of $4,000 paid to G with respect to employment during 1940, only $3,000 is included in wages. The remuneration received by G in excess of $3,000 for employment during 1940, that is, $1,000, is excluded and does not constitute wages.

(b) *Employers' plans providing for payments on account of retirement, sick-*

ness or accident disability, medical and hospitalization expenses, or death. Under section 209 (a) (3) of the act, the term "wages" does not include the amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of:

(1) Retirement;

(2) Sickness or accident disability;

(3) Medical and hospitalization expenses in connection with sickness or accident disability; or

(4) Death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer.

The plan or system established by an employer need not provide for payments on account of all of the specified items, but such plan or system may provide for any one or more of such items.

It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required, expressly or impliedly, by the contract of service.

(c) *Payment by an employer of employees' tax, or employees' contributions under a State law.* The term "wages" does not include the amount of any payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of either (1) the employees' tax imposed by section 1400 of the Federal Insurance Contributions Act (subchapter A of chapter 9 of the Internal Revenue Code) or (2) any payment required from an employee under a State unemployment compensation law.

(d) *Dismissal payments.* Any payments made by an employer to an employee on account of dismissal, that is, involuntary separation from the service of the employer, are excluded from "wages" provided the employer is not legally bound by contract, statute, or otherwise, to make such payments.

(e) *Miscellaneous.* In addition to the exclusions specified in paragraphs (a), (b) (c), and (d) of this section, the following types of payments are excluded from wages:

(1) Remuneration for services which do not constitute employment under section 209 (b) of the act.

(2) Remuneration for services which are not deemed to be employment under section 209 (c) of the act.

(3) Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer.

(4) Ordinarily, amounts paid to traveling salesmen or other employees as allowance or reimbursement for traveling or other expenses incurred in the business of the employer are excluded from wages only to the extent actually incurred and accounted for by the employee to the employer.

(5) Remuneration paid prior to January 1, 1937.

FAMILY RELATIONSHIPS

SECTION 209 (m) OF THE ACT

In determining whether an applicant is the wife, widow, child, or parent of a fully insured or currently insured individual for purposes of this title, the Board shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a wife, widow, child, or parent shall be deemed such.

§ 403.829 *Applicable State law and status*—(a) *Applicable State law defined.* "Applicable State law" is the law which the courts of the domicile of the wage earner, with respect to whose wages an applicant claims benefits or a lump sum, would apply in deciding who is a wife, widow or widower, child, or parent, when determining the devolution of intestate personal property. A living wage earner's domicile is determined as of the time the applicant filed his claim for benefits or a lump sum. A deceased wage earner's domicile is determined as of the time of such wage earner's death. If the wage earner was not domiciled in any State, applicable State law is the law which the courts of the District of Columbia would apply when determining the devolution of such property.

Example 1: W, who was the wife of H, is determined after his death to be his widow under the law relating to the devolution of intestate personal property but held not entitled to share in the distribution of H's intestate personal property, solely on the ground that by a valid antenuptial contract she waived her right to share in such property.

W is a widow under applicable State law within the meaning of section 209 (m) of the act. It is immaterial for the purposes of that subsection whether she is actually entitled to inherit.

Example 2: H and W, husband and wife, are domiciled in State X. W secures a divorce decree in another State under circumstances which would render the decree invalid in State X. W returns to State X and marries F. F is domiciled in State X at the time W's application for wife's insurance benefits is filed as the alleged wife of F.

W is not the wife of F under the law which would be applied by the courts of State X when determining the devolution of intestate personal property. She is therefore not F's wife under applicable State law, within the meaning of section 209 (m) of the act.

(b) *Status under applicable State law.* An individual who is not a wife, widow or widower, child, or parent under applicable State law, but who is treated as such under such law for the purpose of determining the devolution of intestate personal property, has the same "status" as a wife, widow or widower, child, or parent. Thus, under the law of some States, an individual who is not a wife because her supposed marriage was void, may nevertheless be treated as a wife under such law, under certain strictly limited conditions. Such an individual has the "status" of a wife.

SECTION 209 (i) OF THE ACT

The term "wife" means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him prior to January 1, 1939, or if later, prior to the date upon which he attained the age of sixty.

§ 403.830 *Definition of "wife"* An individual is the "wife" of a wage earner as that term is used in Title II of the act, if she meets the following requirements:

(a) She is the wife of such wage earner, or has the same status as a wife, under applicable State law (see § 403.829), and

(b) She either:

(1) Is the mother of the wage earner's son or daughter; or

(2) Was married to such wage earner (became his wife or acquired the status as such, under applicable State law)

(i) Prior to January 1, 1939, or, if later

(ii) Prior to the date upon which he attained the age of sixty.

An individual is the mother of a wage earner's son or daughter within the meaning of subparagraph (1) of this paragraph, if a son or daughter was born to her and such wage earner, even though such son or daughter died before a claim for benefits was filed which involved the determination of whether such individual is a "wife."

Example 1. H at the age of 70 married W in December 1938. W is a wife under applicable State law.

Since H married W prior to January 1, 1939, and since W is a wife under applicable State law, she is the "wife" of H within the meaning of this section.

Example 2: H at the age of 61 married W on January 2, 1939. On January 3, 1940, a son was born to W by H. The son died January 5, 1940. W, who is a wife under applicable State law, applies for wife's insurance benefits after the death of her son.

Although W did not marry H prior to January 1, 1939, and married him after the date on which he attained age 60, she is the "wife" of H within the meaning of this section, since she is his wife under applicable State law and is the mother of his son.

SECTION 209 (j) OF THE ACT

The term "widow" (except when used in section 202 (g)) means the surviving wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him prior to the beginning of the twelfth month before the month in which he died.

§ 403.831 *Definition of "widow."* An individual is the "widow" of a wage earner, as that term is used in Title II of the act (except as stated in § 403.408 (d) (2) under section 202 (g) of the act), if she meets the following requirements:

(a) She is the widow of the wage earner, or has the same status as a

widow, under applicable State law (see § 403.829) and

(b) She either (1) is the mother of the wage earner's son or daughter, or (2) was married to the wage earner (became his wife, or acquired the status as such, under applicable State law) prior to the beginning of the twelfth month before the month in which he died.

An individual is the mother of a wage earner's son or daughter within the meaning of subparagraph (1) of this paragraph, if a son or daughter was born to her and such wage earner, even though such son or daughter died before a claim for benefits was filed which involved the determination of whether such individual is a "widow" and even though such son or daughter was born after the death of such wage earner.

Example: W married H in March 1939, when he was 61. H died in April 1940. W is his widow under applicable State law. There were no children born to them. Although there were no children born to W and H, W is the "widow" within the meaning of this section since she was married to him prior to the beginning of the twelfth month before the month in which he died. Had H died in March 1940, instead of in April, W would not meet the requirement of this section.

SECTION 209 (k) OF THE ACT

The term "child" (except when used in section 202 (g)) means the child of an individual, and the stepchild of an individual by a marriage contracted prior to the date upon which he attained the age of sixty and prior to the beginning of the twelfth month before the month in which he died, and a child legally adopted by an individual prior to the date upon which he attained the age of sixty and prior to the beginning of the twelfth month before the month in which he died.

§ 403.832 *Definition of "child."* An individual is a "child" as that term is used in Title II of the act (except as stated in § 403.408 (d) (2) under section 202 (g) of the act) if he meets the requirements under paragraphs (a), (b) or (c) of this section:

(a) *Children.* A son or daughter (by blood) of a wage earner, who is the child of such wage earner or has the same status as a child, under applicable State law (see § 403.829), is the "child" of such wage earner.

Example: A child C was born out of wedlock to M. Under the law of the State where M was domiciled (applicable State law), C is the child of M. C is the "child" of M within the meaning of this section.

(b) *Stepchildren.* An individual who is the stepchild of a wage earner by virtue of a marriage valid under applicable State law, which was contracted prior to the date upon which the wage earner attained the age of 60 and prior to the beginning of the twelfth month before the month in which the wage earner died, is a "child" of such wage earner.

Example: H and W, husband and wife, had a child, C. H died. W then contracted a marriage with F, which was valid under the law of the State where she and F were domiciled (applicable State law). F was 35 at the time. Two years later F died. Under applicable State law a stepchild is not a child. C is nevertheless a "child" of F, since he was a stepchild of F by virtue of a marriage contracted prior to the date on which F attained the age of 60, and prior to the twelfth month before the month in which F died.

(c) *Adopted children.* An individual who was legally adopted by a wage earner in accordance with applicable State law, prior to the date upon which the wage earner attained the age of 60 and prior to the beginning of the twelfth month before the month in which the wage earner died, is a "child" of such wage earner.

Example: F, at the age of 55, legally adopted C, in accordance with applicable State law. Two years later F died. C is the "child" of F, since he was adopted in accordance with applicable State law prior to the date upon which F attained age 60, and prior to the twelfth month before the month in which F died. It is immaterial whether C is considered a child under applicable State law.

SECTION 202 (f) (3) OF THE ACT

As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

§ 403.833 *Definition of "parent."* An individual is a "parent" of a wage earner, as that term is used in section 202 (f) of the act (see § 403.407) if he meets the requirements under paragraphs (a), (b), or (c) of this section:

(a) *Parents.* A mother or father (by blood) of a wage earner, who is the parent of such wage earner or has the same status as a parent, under applicable State law (see § 403.829) is the "parent" of such wage earner.

Example: A child, C, was born to W, the wife of H. The child was adopted by F and M. Under the law of the domicile of C (applicable State law), an adoption severs the relationship between a child and its natural parents and they no longer are considered parents in the determination of the devolution of intestate personal property of C. Therefore, H and W are not "parents" of C within the meaning of this section.

(b) *Stepparents.* An individual who is a stepparent of a wage earner by reason of a marriage valid under applicable State law, which was contracted before such wage earner attained the age of 16, is a "parent" of such wage earner.

Example: H and W were married and had a son C. H died. W later contracted a marriage with F when C was 6 years of age, which was valid under applicable State law. F is a "parent" of C regardless of his status under applicable State law, since F married W before C attained age 16.

(c) *Adopting parents.* An individual who legally adopted a wage earner in accordance with applicable State law, before the wage earner attained the age of 16, is a "parent" of such wage earner.

Example: H and W adopted C when the latter was 10. The adoption was recognized as legal under applicable State law. Under that law H and W would not be considered as parents. H and W are nevertheless "parents" of C, since they adopted C before he attained age 16.

SECTION 209 (n) OF THE ACT

A wife shall be deemed to be living with her husband if they are both members of the same household, or she is receiving regular contributions from him toward her support, or he has been ordered by any court to contribute to her support; and a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support.

§ 403.834 *Definition of "living with."* A wife shall be deemed to be "living with" her husband at the time of her application for a benefit is filed, and a widow shall be deemed to have been living with her husband at the time of his death, if, at such time, either of the three following conditions exist:

(a) The husband and wife were at such time members of the same household.

A husband and wife were members of the same household if they were living together, and customarily lived together, in the same place of abode.

A husband and wife who customarily lived together in the same place of abode but who were not actually doing so at such time, may nevertheless be members of the same household, if they were apart only temporarily and intended to resume living together in the same place of abode.

Example: H and W, husband and wife, regularly occupied a room in a boarding house. Due to ill health, H went south intending to return in 6 months. After H's departure, W obtained another room pending H's return. H died 5 months later in the south. W and H were members of the same household and therefore W was "living with" H, at the time of his death, since they customarily lived together in the same place of abode, were absent therefrom only temporarily, and intended to resume living together.

(b) If the wife was at such time receiving regular contributions from her husband toward her support.

Contributions must be substantial, and may be made in cash or other medium. In determining the sufficiency of contributions under this subsection, the surrounding circumstances with respect to both the time when contributions are made and the amount thereof shall be taken into consideration.

Example: H left his wife W, telling her she might occupy the house which he owned but that he would never return to her. She lived in the house (without paying rent) until his death, and he made no other provision for her support.

W was "living with" H at the time of his death since her use and occupancy of the house constituted regular contributions from H toward her support.

(c) If the husband had, at such time been ordered by any court to contribute to his wife's support.

This condition is met if the husband is legally obligated to contribute to the support of his wife at such time by virtue of any order, judgment, or decree of a court of competent jurisdiction, regardless of whether he actually made any such contribution. In determining the existence of such a legal obligation, any such order, judgment, or decree shall be considered as in full force and effect unless it has expired or has been vacated.

Example 1: H abandoned his wife W and never thereafter contributed to her support. W secured a valid court decree for separate maintenance which directed that H pay $5 a week to the support of W. H left the juris-

diction of the court and never complied with the terms of the decree. He filed application for primary insurance benefits at the age of 65 while living in another State. W thereupon filed application for wife's insurance benefits.

W was "living with" H at the time of filing application since H was legally obligated to contribute to the support of W at such time, by virtue of a decree of a court of competent jurisdiction.

Example 2: After H abandoned his wife W, W secured a valid court decree requiring H to pay $5 a week to the support of W. Later, because of H's illness the order was suspended. H died while this suspension was in effect. W filed a claim for widow's insurance benefits.

W was "living with" H at the time of his death since H was legally obligated to contribute to the support of W at such time, by virtue of a decree of a court of competent jurisdiction. Although the decree was suspended at the time of H's death, it had not expired nor had it been vacated.

SUBPART I—MISCELLANEOUS PROVISIONS

PENALTIES

SECTION 208 OF THE ACT

Whoever, for the purpose of causing an increase in any payment authorized to be made under this title, or for the purpose of causing any payment to be made where no payment is authorized under this title, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under the Federal Insurance Contributions Act) as to the amount of any wages paid or received or the period during which earned or paid, or whoever makes or causes to be made any false statement of a material fact in any application for any payment under this title, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such an application, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

SECTION 1107 OF THE ACT

(a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this Act, the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act, or of any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Board that he is such individual, or the wife, parent, or child of such individual, or the duly authorized agent, of such individual, or of the wife, parent, or child of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

SECTION 35 (a) OF THE CRIMINAL CODE OF THE UNITED STATES, AS AMENDED

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; * * * or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than $10,000 or imprisoned not more than ten years, or both. * * *

DISCLOSURE OF INFORMATION, PENALTY

SECTION 1106 OF THE ACT

No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof, which has been transmitted to the Board by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Board or by any officer or employee of the Board in the course of discharging the duties of the Board, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Board or from any officer or employee of the Board, shall be made except as the Board may, by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

§ 403.901 *Disclosure of information.* (a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof, which has been transmitted to the Administration by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Administration or by any officer or employee of the Administration in the course of discharging the duties of the Administration, shall be made except as now provided or as may hereafter be provided by duly prescribed regulations of the Commissioner. Provisions regarding such disclosures are now contained in Regulation No. 1 (approved December 3, 1940) as amended, and in applicable provisions of the regulations in this part.

(b) No disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Administration or from any officer or employee of the Administration shall be made except to such extent as may be specifically authorized under duly prescribed regulations of the Commissioner.

RULES AND REGULATIONS

SECTION 205 (a) OF THE ACT

The Board shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

SECTION 1102 OF THE ACT

The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

§ 403.902 *Promulgation of regulations.* In pursuance of sections 205 (a) and 1102 of the act, the foregoing regulations are hereby prescribed, as of July 16, 1946.

[SEAL] A. J. ALTMEYER,
Commissioner for Social Security.

Approved: January 20, 1947.

WATSON B. MILLER,
Federal Security Administrator

[F. R. Doc. 47-772; Filed, Jan. 28, 1947; 8:49 a. m.]

[Reg. No. 3,[1] Further Amended]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE

MISCELLANEOUS AMENDMENTS

Regulations No. 3, as amended (20 CFR, Cum. Sup., 403.1 et seq.), are further amended as follows:

1. Section 403.1 is amended by adding at the end of paragraph (b) (1) the following undesignated paragraph:

§ 403.1 *Chronological description of pertinent statutes and regulations.* * * *

(b) *Title II of the Social Security Act, as amended, effective January 1, 1940, and regulations of the Social Security Administration thereunder*—(1) *Statutes.* * * *

The act approved August 10, 1946 (Public Law 719, 79th Congress; 60 Stat. 978) adds to Title II of the Social Security Act, as amended, a new section 210 designated "Benefits in case of deceased World War II Veterans," and amends sections 202, 203, and 209 of said Title II of the Social Security Act, as amended. Details of these amendments appear in appropriate sections of this chapter.

2. The statutory provisions immediately preceding § 403.202 are amended by inserting at the end thereof the following:

SECTION 407 OF THE ACT OF AUGUST 10, 1946 (60 STAT. 988)

(a) Section 209 (h) of such act is amended to read as follows:

[1] 5 F. R. 1849.

(h) The term "currently insured individual" means any individual with respect to whom it appears to the satisfaction of the Administrator that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter.

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

3. Section 403.202, paragraph (b) is amended to read as follows:

§ 403.202 *Currently insured status.* * * *

(b) *Determination of currently insured status*—(1) *Effect of 1946 amendment.* Under section 209 (h) of the act prior to the 1946 amendments, currently insured status is based on wages paid for at least 6 of the 12 quarters immediately preceding the quarter of death. Under the 1946 amendment, a "currently insured individual" is one having at least 6 quarters of coverage during the period consisting of the quarter in which he died and the 12 quarters immediately preceding such quarter. Since the act defines quarters of coverage in terms of wages paid in a quarter (see § 403.201 (h)) the amendment eliminates, in the cases to which it applies, the necessity to inquire whether wages were paid for any quarter.

(2) *Currently insured status under 1946 law.* An individual who had not less than 6 quarters of coverage (see § 403.201 (b)) during the period consisting of the quarter in which he died and the 12 quarters immediately preceding such quarter, is a currently insured individual. Quarters of coverage need not have been consecutive within such 13-quarter period. The age of the individual at death is immaterial.

(3) *Currently insured status under 1939 law.* An individual who has been paid wages of not less than $50 for each of not less than 6 of the 12 calendar quarters immediately preceding the quarter in which he died, is a currently insured individual. Such wages need not have been paid for consecutive quarters within such 12-quarter period. The age of the individual at death is immaterial.

4. The heading of § 403.202 (c) is amended to read: "(c) *"Wages" paid "for" a quarter under 1939 law.*"

5. Section 403.202 is further amended by adding at the end of Example 3 thereof a new example designated Example 4 as follows:

Example 4. A is paid wages of $30 in each month during the entire year 1945 and from January through May 1947. He dies in June 1947.

A died a currently insured individual since under the 1946 law the quarter in which he died is included to give him 6 quarters of coverage during the period consisting of the quarter of death and the 12 quarters immediately preceding such quarter. His status is not affected by the fact that such quarters of coverage were not consecutive.

6. Section 403.202 is further amended by adding a new paragraph (d) and example as follows:

(d) *Applicable law.* The 1946 law for establishing currently insured status applies to applications filed after December 31, 1946, except that where the requirements of the 1946 law cannot be met, and all elements of entitlement under the 1939 law other than the filing of an application existed prior to January 1, 1947, the 1939 law for establishing currently insured status shall apply.

Example: A is paid wages of $50 or more in each quarter during the year 1945. In the second quarter of 1946 he is paid wages of $1500 for the first two quarters of that year. A dies in November 1946. Applications for widow's current and child's benefits are filed in May 1947.

A died currently insured under section 209 (h) of the 1939 law since he was paid wages of more than $50 for each of 6 out of 12 calendar quarters immediately preceding the quarter in which he died. A currently insured status under the 1946 law cannot be found since A had only 5 quarters of coverage on a wages paid in a quarter basis. However, entitlement may be established under the 1939 law, even though application is filed after December 31, 1946, because A died prior to January 1, 1947.

7. The following statutory material and new § 403.203 is inserted after § 403.202:

SECTION 209 (r)

[Section 411 of the Act of August 10, 1946 (60 Stat. 989)]

With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such periods; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

§ 403.203 *Allocation of 1937 wages.* Under articles 401 and 402 of U. S. Treasury Regulations 91, as amended by T. D. 4778, employers are required to make information returns on Forms SS–2 and SS–2a for the periods January 1, 1937, to June 30, 1937, both dates inclusive, and July 1, 1937, to December 31, 1937, both dates inclusive. Thereafter information returns are required to be made by employers quarterly for periods of 3 calendar months ending March 31, June 30, September 30, and December 31 of each year subsequent to 1937. With regard to benefits payable for and after August 1946, section 209 (r) of the Social Security Act, as amended, authorizes and directs that wages reported in the semi-annual returns for 1937 be allocated on a quarterly return basis for the purpose of computing "quarters of coverage" and "expired quarters" for 1937.

Where wages (see §§ 403.827 and 403.828) of $100 or more were paid to an individual in a 6-month period in 1937 commencing either January 1, 1937, or July 1, 1937, one-half of the wages are credited to each of the calendar quarters in such 6-month period:

Example 1: Employee A was paid wages of $137 in the 6-month period commencing January 1, 1937, and was paid wages of $230 in the 6-month period commencing July 1, 1937. A has 4 quarters of coverage for 1937, being deemed to have been paid $68.50 (one-half of $137) for the first quarter, $68.50 for the second quarter, $115 (one-half of $230) for the third quarter, and $115 for the fourth quarter.

Example 2: Employee C attained age 22 in December 1937 and died in January 1945. He was paid wages of $147 for the 6-month period commencing January 1, 1937, and was paid wages of $210 in the 6-month period commencing July 1, 1937. C has 4 quarters of coverage for 1937 and is charged with 4 expired quarters for 1937, being deemed to have been paid $73.50 (one-half of $147) for the first quarter, $73.50 for the second quarter, $105 (one-half of $210) for the third quarter, and $105 for the fourth quarter.

Where wages of $100 or more were paid to an individual during a 6-month period in which he attained age 65, he is to receive 2 quarters of coverage for such period even if the attainment date was in the first quarter of the period.

Where wages of less than $100 were paid to an individual in a 6-month period in 1937 commencing either January 1, 1937, or July 1, 1937, all of the wages are credited to the latter quarter in such period. There is an exception to this provision, however. Where the individual attained age 65 in any such period, then the wages are deemed to have been paid before such age was attained and are credited to the quarter in which the individual attained age 65.

Example 1: Employee A attained age 65 on February 5, 1937. He was paid wages of $86 for the 6-month period commencing January 1, 1937. A has 1 quarter of coverage in 1937. Since the payment of $86 is deemed to have been paid prior to attainment of age 65, A is credited with $86 wages for the calendar quarter January 1, 1937, to March 31, 1937.

Example 2: Employee C attained age 65 on December 19, 1937. He was paid wages of $59 in the 6-month period commencing January 1, 1937, and wages of $63 in the 6-month period commencing July 1, 1937. C has 2 quarters of coverage in 1937. $59 is deemed to have been paid in the latter quarter of the 6-month period commencing January 1, 1937. $63 is deemed to have been paid in the quarter in which C attained age 65.

Example 3: Employee E attained age 65 on July 14, 1937. He was paid wages of $93 in the 6-month period commencing January 1, 1937, and wages of $119 in the 6-month period commencing July 1, 1937. E has 3 quarters of coverage in 1937. E is credited with 1 quarter of coverage for the 6-month period commencing January 1, 1937. Since E received wages of $100 or more in a 6-month period in 1937, he is credited with 2 quarters of coverage for that period without regard for the date of attainment of age 65.

8. The words "see § 403.704 (c)" appearing in the second undesignated subparagraph of paragraph (c) of § 403.301 and in the second and third undesignated paragraphs of § 403.302 are deleted.

9. The statutory provisions immediately preceding § 403.301 are amended by adding at the end thereof the following:

SECTION 209 (q)

[Section 410 of the act of August 10, 1946 (60 Stat. 989)]

Subject to such limitation as may be prescribed by regulation, the Administrator shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or

for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed.

10. Two new sections numbered 403.303 and 403.304, respectively, are added immediately following § 403.302 as follows:

§ 403.303 *Computation of primary insurance benefit*—(a) *For living wage earner* The primary insurance benefit of a living wage earner is computed in accordance with the provisions of §§ 403.301 and 403.302 of this chapter:

(1) As of the date he becomes entitled to primary insurance benefits on filing application therefor, and

(2) As though he became entitled to primary insurance benefits on the last day of the quarter in which he could first have become entitled to primary insurance benefits, and

(3) As though he became entitled to primary insurance benefits on each intervening March 31 between the dates specified in subparagraphs (1) and (2) of this paragraph.

The highest rate obtained from the foregoing computations is the wage earner's primary insurance benefit.

(b) *When wage earner is dead.* The primary insurance benefit of a deceased wage earner who is over 65 and fully insured at the time of his death is computed in accordance with the provisions of §§ 403.301 and 403.302:

(1) As of the date of the wage earner's death, and

(2) As though the wage earner became entitled to primary insurance benefits on the last day of the quarter in which he could first have become entitled to primary insurance benefits on filing application therefore, and

(3) As though the wage earner became entitled to primary insurance benefits on each intervening March 31 between the dates specified in subparagraphs (1) and (2) of this paragraph.

The highest rate obtained from the foregoing computations is the deceased wage earner's primary insurance benefit.

The primary insurance benefit of a deceased wage earner who either was not 65 or was not fully insured at the time of his death is computed in accordance with the provisions of §§ 403.301 and 403.302 as of the date of the wage earner's death only

§ 403.304 *Recomputation of benefits*—(a) *When permitted*—(1) *For wage earner* In order for a wage earner to secure a recomputation of his primary insurance benefit:

(i) He must file application therefor, and

(ii) At the time of filing application for recomputation he must not be working in employment covered by the Social Security Act for wages of more than $14.99 per month, and

(iii) He must not have had a recomputation of his benefit rate in the 12-month period preceding his application for recomputation, except that the first recomputation may be had at any time subsequent to the initial computation.

(2) *For survivors.* Survivors may secure recomputation of the primary insurance benefit by filing application therefore at any time.

(b) *Method of first recomputation*—(1) *For wage earner* The primary insurance benefit of a wage earner who applies for recomputation shall be recomputed in the manner provided for the computation of benefits in §§ 403.301 and 403.302 of this chapter:

(i) As though the wage earner became entitled to primary insurance benefits on the last day of the quarter in which he could first have become entitled to primary insurance benefits on filing application therefor, and

(ii) As though he became entitled to primary insurance benefits as of the first day after the last quarter for which wages have been posted to his account at the time he files application (provided however that if wages have not been posted for more than 6 months prior to the quarter of filing application, such wages will be developed for the period exceeding 6 months) and

(iii) As though he became entitled to primary insurance benefits on each March 31 intervening between the dates specified in subdivisions (i) and (ii) of this subparagraph.

The highest rate obtained from the foregoing computations if in excess of the individual's existing primary insurance benefit is the individual's recomputed primary insurance benefit.

(2) *For survivors.* The primary insurance benefit of a deceased wage earner shall be recomputed in the manner provided for the computation of benefits in §§ 403.301 and 403.302 of this chapter:

(i) As though the wage earner became entitled to primary insurance benefits on the last day of the quarter in which he could first have become entitled to primary insurance benefits on filing application therefor, and

(ii) As though he became entitled to primary insurance benefits on each intervening March 31 between the date mentioned in subdivision (i) of this subparagraph and the date of the wage earner's death.

The highest rate obtained from the foregoing computations if in excess of the individual's existing primary insurance benefit is the individual's recomputed primary insurance benefit.

(c) *Second and subsequent recomputations.* Second and subsequent recomputations will be made in the manner described in paragraph (b) of this section except that the primary insurance benefit will also be recomputed as though the wage earner became entitled to primary insurance benefits as of the date he filed his previous application for recomputation.

(d) *Effect of recomputation.* Benefits computed on the basis of a prior application or application for recomputation terminate with the month before the month in which the application for recomputation is filed if the recomputed benefit is higher, and benefits as recomputed are payable beginning with the month in which such application is filed. If, upon a second or subsequent recomputation (see paragraph (c) of this section) it is determined that the primary insurance benefit computed as of the date of the filing of application for the previous recomputation was higher than the amount of the benefit rate as previously computed or recomputed, the difference in the rate will be payable retroactively for the months elapsing since the date of application for the previous recomputation.

11. The statutory provision immediately preceding § 403.404 is amended to read as follows:

SECTION 202 (c) OF THE ACT

(1) Every child (as defined in section 209 (k)) of an individual entitled to primary insurance benefits, or of an individual who died a fully or currently insured individual (as defined in section 209 (g) and (h)) after December 31, 1939, if such child (A) has filed application for child's insurance benefits, (B) at the time such application was filed was unmarried and had not attained the age of 18, and (C) was dependent upon such individual at the time such application was filed, or, if such individual has died, was dependent upon such individual at the time of such individual's death, shall be entitled to receive a child's insurance benefit for each month, beginning with the month in which such child becomes so entitled to such insurance benefits, and ending with the month immediately preceding the first month in which any of the following occurs: such child dies, marries, is [adopted] *adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual)*, or attains the age of 18.

(2) Such child's insurance benefit for each month shall be equal to one-half of a primary insurance benefit of the individual with respect to whose wages the child is entitled to receive such benefit, except that, when there is more than one such individual such benefit shall be equal to one-half of whichever primary insurance benefit is greatest.

(3) A child shall be deemed dependent upon a father or adopting father, or to have been dependent upon such individual at the time of the death of such individual, unless, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child had been adopted by some other individual, or

(C) such child [, at the time of such individual's death,] was living with and *was chiefly* supported by such child's stepfather.

(4) A child shall be deemed dependent upon a mother, adopting mother, or stepparent, or to have been dependent upon such individual at the time of the death of such individual, only if, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, no parent other than such individual was contributing to the support of such child and such child was not living with its father or adopting father. [As amended by section 402 of the Act of August 10, 1946 (60 Stat. 986). The words in italics were added and the words in brackets were deleted by the amendment.]

12. Section 403.404, paragraph (b), subparagraph (3), is amended to read as follows:

§ 403.404 *Child's insurance benefits.* * * *

(b) *Duration of benefits.* * * *

(3) The child is adopted by an individual other than the wage earner with respect to whose wages such child is entitled to benefits; except where the benefits are for or after August 1946, and the child is adopted by a stepparent, grandparent, aunt or uncle of the child subsequent to the death of such wage earner; or

13. Section 403.404, paragraph (d) is amended to read as follows:

(d) *Dependency upon a father or adopting father—(1) Effect of 1946 amendment.* The conditions under which a child who lives with and is supported by his stepfather is deemed dependent upon his natural or adopting father who does not contribute to the child's support, have been made the same whether such natural or adopting father is living or deceased. Under the 1939 Act, such a child generally was deemed dependent on the natural or adopting father if such father was a primary beneficiary. However, if such father died, the child was not deemed to be his dependent. Under the amendment, such a child is not deemed dependent in either case.

(2) *When child is deemed dependent.* A child who has filed application for child's insurance benefits based on the wages of a father or adopting father is deemed to have been dependent upon such individual at the time such application was filed, if such indivdual is then living, or if such individual has died, at the time of such individual's death, if, at such time, such individual was either living with or contributing to the support of the child.

Even though the father or adopting father was not living with or contributing to the support of the child at the time the child's application was filed, if such individual was then living, or at the time of such individual's death, the child is deemed to have been dependent upon such individual at such time if the child:

(i) Was either the legitimate or adopted child of such individual; and

(ii) Was not then the adopted child of some other individual; and

(iii) Was not living with and being chiefly supported by its stepfather.

Example: F and M, the parents of C, are divorced. M marries S. C is living with M and his stepfather S. K, an uncle, contributes $10 each month for the support of C. S provides C with a home, food and clothing valued at $20 each month. Since S is furnishing the major portion of C's support, C is being chiefly supported by S.

If F becomes entitled to primary insurance benefits or dies, and an application for child's insurance benefits is filed on behalf of C, C cannot become entitled to child's insurance benefits based on F's wage record, since F was not living with or contributing to the support of C and C was living with and being chiefly supported by S.

14. The statutory provision immediately preceding § 403.407 is amended to read as follows:

SECTION 202 (f) OF THE ACT

(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual after December 31, 1939, [leaving no widow and no unmarried surviving child under the age of eighteen,] *if such individual did not leave a widow who meets the conditions in subsection (d) (1) (D) and (E) or an unmarried child under the age of eighteen deemed dependent on such individual under subsection (c) (3) or (4), and* if such parent (A) has attained the age of sixty-five, (B) was [wholly] *chiefly* dependent upon and supported by such individual at the time of such individual's death and filed proof of such dependency and support within two years of such date of death, (C) has not married since such individual's death, (D) is not entitled to receive any other insurance benefits under this section, or is entitled to receive one or more of such benefits for a month, but the total for such month is less than one-half of a primary insurance benefit of such deceased individual, and (E) has filed application for parent's insurance benefits, shall be entitled to receive a parent's insurance benefit for each month, beginning with the month in which such parent becomes so entitled to such parent's insurance benefits and ending with the month immediately preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to receive for any month an insurance benefit or benefits (other than a benefit under this subsection) in a total amount equal to or exceeding one-half of a primary insurance benefit of such deceased individual.

(2) Such parent's insurance benefit for each month shall be equal to one-half of a primary insurance benefit of such deceased individual, except that, if such parent is entitled to receive an insurance benefit or benefits for any month (other than a benefit under this subsection), such parent's insurance benefit for such month shall be reduced by an amount equal to the total of such other benefit or benefits for such month. When there is more than one such individual with respect to whose wages the parent is entitled to receive a parent's insurance benefit for a month, such benefit shall be equal to one-half of whichever primary insurance benefit is greatest.

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen. [As amended by section 403 of the Act of August 10, 1946 (60 Stat. 987). Applicable only to applications for benefits filed after December 31, 1946. The words in italics were added and the words in brackets were deleted by the amendment.]

15. Section 403.407, paragraph (a), is amended to read as follows:

§ 403.407 *Parent's insurance benefits—(a) Conditions of entitlement: Effect of 1946 amendments.* Section 403 of the 1946 amendments to the act, which is applicable in cases of applications filed after December 31, 1946, provides that entitlement of a dependent parent will be prevented if there is a widow or child who could become entitled to monthly benefits by filing an application in the month in which the wage earner died or in any subsequent month. Under the act prior to the amendment, the mere survival of a widow or unmarried child under 18 prevents entitlement to parent's benefits even though such widow or child might fail to meet the qualifications for entitlement. The amendment also changes the dependency requirement from wholly dependent to chiefly dependent.

A parent is entitled to parent's insurance benefits if he:

(1) Is the parent (see § 403.833) of an individual who:

(i) Died after December 31, 1939; and

(ii) Was fully insured (see § 403.201) at the time of death; and

(iii) In cases of applications filed before January 1, 1947, was survived neither by a widow (see § 403.831) nor an unmarried child under the age of 18 (see paragraph (d) of this section) or

(iv) In cases of applications filed after December 31, 1946, was survived neither by a widow (see § 403.831) nor an unmarried child under the age of 18 (see paragraph (d) of this section) who could on filing application therefor in the month the wage earner died or in any month thereafter become entitled to monthly benefits; and

(2) Has attained the age of 65 (see § 403.801) and

(3) In cases of applications filed before January 1, 1947, was wholly dependent upon and supported by, or in cases of applications filed after December 31, 1946, was chiefly dependent upon and supported by (see paragraph (e) of this section) such individual at the time of such individual's death and except as otherwise provided in § 403.701 (j) has filed proof of such dependency and support within 2 years after the date of such death; and

(4) Has not married since the death of such individual; and

(5) Is not entitled to any other benefit or benefits under section 202 of the act (see §§ 403.402, 403.403, 403.405, and 403.406) in a total amount for any month which is equal to or in excess of one-half of the primary insurance benefit of such deceased individual; and

(6) Has filed an application (see § 403.701) for parent's insurance benefits.

One or more parents of a fully insured individual may become entitled to benefits hereunder.

Example: P, aged 66, is the parent of A. P has been chiefly dependent upon and supported by A for many years until A's death in December 1946. A was fully insured at the time of his death and was survived by a widow who was not living with him at the time of his death.

P, upon filing application after December 31, 1946, and meeting the other conditions of entitlement will be entitled to parent's insurance benefits based upon the wages of A.

16. The example in § 403.407, paragraph (c), is amended to read as follows:

(c) *Rate of benefit.* * * *

Example: P, aged 60, is the parent of A and B. P is chiefly dependent upon and supported by A during 1945; A dies in December of that year. P is thereafter chiefly dependent upon and supported by B until B's death in 1947. Both A and B were fully insured at the time of their deaths and neither was survived by a widow or unmarried child under the age of 18. P, upon attaining age 65 in 1947 and meeting the other conditions of entitlement, will be entitled to parent's insurance benefits based upon the primary insurance benefit of A or B, whichever is the larger, since he was chiefly dependent upon and supported by A at A's death and chiefly dependent upon and supported by B at B's death.

17. Section 403.407, paragraph (e) is amended to read as follows:

(e) *Wholly or chiefly dependent upon and supported by*—(1) *Effect of 1946 amendment.* Section 403 of the 1946 amendments to the act, which is applicable to cases of applications filed after December 31, 1946, changes the former requirement that the parent must have been "wholly" dependent upon and supported by the wage earner to "chiefly" dependent upon and supported by the wage earner.

(2) *Wholly dependent.* A parent is "wholly dependent upon and supported by" an individual if such parent is supported by such individual and

(i) Has no income or means of support other than the income or support received from such individual; or

(ii) Has only inconsequential income or means of support other than that received from such individual.

(3) *Chiefly dependent.* A parent is "chiefly dependent upon and supported by" an individual if such parent is dependent upon the individual and receives more than 50% of his maintenance from such individual.

18. The statutory provisions immediately preceding § 403.408 are amended by inserting at the end thereof the following:

SECTION 404 OF THE ACT OF AUGUST 10, 1946 (60 STAT. 987)

(a) Section 202 (g) of such Act is amended to read as follows:

(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the Administrator to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual.

(b) The amendment made by subsection (a) of this section shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

(c) In the case of any individual who, after December 6, 1941, and before the date of the enactment of this Act, died outside the United States (as defined in section 1101 (a) (2) of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such Act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this Act.

19. Section 403.408, paragraph (a) subparagraph (3), is amended to read as follows:

§ 403.408 *Lump-sum death payments*—(a) *Conditions of entitlement.*
* * *

(3) An application (see § 403.701) for such lump sum has, except as otherwise provided in §§ 403.701 (g) and 403.701 (j) been filed within 2 years following the death of such individual.

20. Section 403.408, paragraph (b) (1) is amended to read as follows:

(b) *Persons entitled to receive payments*—(1) *Survivors of deceased*—(i) *Effect of 1946 amendments.* Section 404 (a) of the 1946 amendments, which is applicable in cases where the wage earner dies after December 31, 1946, adds an additional requirement for the entitlement of a spouse to a lump sum by providing that such individual will be paid the lump sum only if he or she was living with (see §§ 403.834 and 403.835) the wage earner at the time of the wage earner's death. It also eliminates children (and individuals entitled to share with them as distributees of intestate property) and parents as beneficiaries of lump-sum death payments except where such persons may be equitably entitled (see § 403.408 (b) (2)) because of having paid the burial expenses. Thus, if no spouse is living with the wage earner at the time of his death, the lump sum will be paid to the person or persons equitably entitled thereto.

(ii) *Survivors of individual who died prior to January 1, 1947* The following person or persons whose relationship to the deceased insured individual is determined by the Administration, and who are living at the time of such determination, are, in the order named, entitled to a lump sum under the conditions stated in paragraph (a) of this section:

(*a*) The widow or widower (see paragraph (d) (2) of this section) of such individual. If there is no such widow or widower, the lump sum is payable to

(*b*) The child or children (see paragraph (d) (2) of this section) of the deceased and any other person or persons who are, under the intestacy law of the State where the deceased was domiciled, entitled to share with such child or children in the distribution of intestate personal property of such deceased invidual. Persons entitled to share with such child or children are not precluded from receiving the lump sum by reason of the fact that no child survived such deceased individual or was living at the time of the Administration's determination of relationship. If there is no such child or other person, then the lump sum is payable to

(*c*) The parent or parents (see paragraph (d) (2) of this section) of the deceased.

(iii) *Survivors of individual who died after December 31, 1946.* The person who is determined by the Administration to be the widow or widower (see paragraph (d) (2) of this section) of the deceased insured individual and to have been living with (see §§ 403.834 and 403.835) such individual at the time of death is entitled to the lump sum under the conditions stated in paragraph (a) of this section.

21. Section 403.408, paragraph (b) subparagraph (2) is amended to read:

(2) *Persons equitably entitled.* If there is no such person as is described in the applicable subdivisions under subparagraph (1) of this paragraph, or if such person dies before receiving payment, the lump sum will be payable to any person or persons equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the burial expenses of the deceased insured individual.

Where an estate is a person equitably entitled, payment will be made to the legal representative of such estate. On and after June 18, 1946, when it appears reasonably certain that a legal representative has not been and will not be appointed, application may be filed and payment made on behalf of such estate in accordance with the following rules:

Where an individual paid part of the burial expenses and the balance was paid from funds belonging to the wage earner, the proportionate share of the lump sum due to the estate may be paid to reimburse such individual to the extent of his contribution, provided there are no outstanding debts for last illness expenses which under state law would be entitled to equal preference with or priority to claims for burial expenses.

Where burial expenses were paid in whole or in part from funds belonging to the wage earner, the entire lump sum or such part thereof as remains after fully reimbursing individuals who have paid part of the burial expenses, may be paid to a blood relative or brother or sister by adoption of the wage earner, provided, the wage earner left no unpaid debts, all of the readily available heirs consent to such payment, and the applicant promises to distribute the payment to the person or persons entitled thereto and to account therefor to a legal representative if any should be appointed.

Where an individual who has paid the wage earner's burial expenses dies before collecting the lump sum, payment may be made as in the case where the burial expenses were paid from funds belonging to the wage earner, except that the deceased individual's spouse may be preferred as payee on behalf of the estate in which event consent of the other heirs may be waived.

The term "person or persons equitably entitled" does not include, among others, any of the following:

(i) The United States Government or any wholly owned instrumentality thereof

(ii) Any person under contractual obligation to pay the burial expenses of the deceased, to the extent of such obligation.

(iii) Any person paying the expenses of the burial of a member or employee of such person, to the extent of any payment under a plan, system, or general practice.

(iv) Any person furnishing goods or services in connection with the burial of the deceased, to the extent that goods or services are furnished.

(v) Any person who has been, or will be, wholly or partially reimbursed, to the extent of such reimbursement.

22. The first paragraph of § 403.501 is amended to read:

§ 403.501 *Modification in amount of benefits and lump-sum death payments.* Under certain conditions the amount of benefits and lump sums, as calculated under section 202 of the act, must be modified upward or downward in determining the amount actually to be paid to the beneficiary. The modifications in the amount calculated under section 202 of the act occur where (1) reductions or increases of benefits (other than primary insurance benefits) are required under section 203 (a) or (b) of the act, or (2) deductions from benefits or lump sums are required under section 203 (d), (e) (g) or (h) of the act or under section 907 of the Social Security Act Amendments of 1939, or (3) adjustment is required under section 204 (a) of the act. Reductions under section 202 (h) of the act, as amended, and reductions and increases under section 203 (a) or (b) are always made before any deductions or adjustments are made under sections 203 (d) (e) (g) or (h) of the act, section 907 of the Social Security Act Amendments of 1939, or section 204 (a) of the act.

23. The statutory provisions immediately preceding § 403.502 are amended by adding at the end thereof the following:

SECTION 405 OF THE ACT OF AUGUST 10, 1946 (60 STAT. 987)

(a) Section 202 (h) of such act is amended to read as follows:

(h) * * * Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Administrator has certified for payment for such prior month.

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

24. Section 403.502, paragraph (b) is amended to read as follows:

§ 403.502 *Reductions and increases of benefits.* * * *

(b) *Conditions requiring reduction and amount of reduction.* Reductions are made when there are two or more benefits for a month based upon the wages of one individual, and when the total amount of such benefits for such month, as calculated under section 202 of the Act, is more than $20 and also exceeds one of the following amounts:

(1) $85, or

(2) Twice the primary insurance benefit of such individual, or

(3) 80 per centum of such individual's average monthly wage.

If these conditions exist each of such benefits (except a primary insurance benefit) must be proportionately reduced so that the total of the benefits will be the amount stated in subparagraphs (1) (2) or (3) of this paragraph, whichever is least. If, however, such least amount is under $20, the total is reduced only to $20.

Reductions are also made where application is filed after December 31, 1946, for any benefit (other than a primary insurance benefit) for any month prior to the month in which such application is filed (see § 403.701 (f)), where payment of benefits for any such prior month would result in an overpayment (see § 403.601) In such case the applicant's benefit for any month prior to the month in which such application is filed shall be reduced to the extent that may be necessary so that payment thereof will not render erroneous any benefit for such prior month which has been certified for payment before the filing of such application.

25. Section 403.502, paragraph (b), is further amended by adding thereto a new example 5 as follows:

Example 5: A widow, W, and two children, A and B, are entitled effective March 1947 to benefits totaling $47.25 based on a primary insurance benefit of $27. They are receiving benefits currently when an application on behalf of another child, C, is filed on August 28, 1947. C's benefits for May, June, and July will be reduced to $6.75 per month so that the maximum of $54 will not be exceeded. If C's benefits are not so reduced, appropriate adjustment must be made against benefits subsequently payable to him. Beginning with August, the benefit rates will be $18 for W and $12 for each child. If benefits for August or thereafter are paid W, A, and B at the former higher rate, appropriate adjustment must be made against their subsequent benefits.

If, on August 28, 1947, no benefits for any of the 3 months prior to August had yet been certified for payment to W, A, and B, the benefits of C for any such month would not be subject to this reduction. In such case, if any payments should be made to W, A, and B at the higher rate, the overpayments would be adjusted against their subsequent benefits.

26. The statutory provisions immediately preceding § 403.503 are amended by inserting between section 203 (d) and section 203 (e) of the act the following:

SECTION 406 (a) OF THE ACT OF AUGUST 10, 1946 (60 STAT. 988)

Section 203 (d) (2) of such Act (relating to deductions for failure to attend school) is repealed.

27. Section 403.503, paragraph (b) is amended to read:

§ 403.503 *Deductions because of employment, etc.* * * *

(b) *Failure of child to attend school.* With respect only to any month before August 1946, if a child under 18 and over 16 years of age fails, in any month for which he is entitled to a benefit, to attend school regularly, and the Administration finds that attendance was feasible, deductions are made from any benefit or benefits to which such child is or becomes entitled. The amount to be deducted is equal to the benefit to which such child was entitled for the month in which he failed to attend school regularly.

28. Section 403.503, paragraph (f), is amended to read:

(f) *Relation to provisions for reductions and increases.* In effecting a deduction, no amount can be considered as having been withheld from a benefit for a particular month, which is in excess of the amount of such benefit as reduced or increased (if required) under section 203 (a) or (b) of the Act or reduced under section 202 (h) of the act, as amended (see § 403.502). Likewise, the amount of a benefit by which a deduction is measured (i. e., a benefit for the month in which the event occasioning the deduction occurred) is the amount of such benefit as so reduced or increased. See example under paragraph (d) of this section.)

29. The statutory provision immediately preceding § 403.504 is amended to read as follows:

SECTION 203 (g) OF THE ACT

Any individual in receipt of benefits subject to deduction under subsection (d) or (e) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event enumerated therein, shall report such occurrence to the Board prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred. Any such individual having knowledge thereof, who fails to report any such occurrence, shall suffer an additional deduction equal to that imposed under subsection (d) or (e), *except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.* [As amended by section 406 (b) of the Act of August 10, 1946 (60 Stat. 988). The words in italics were added.]

30. The third paragraph of §403.504 is amended to read:

§ 403.504 *Reports to the Administration of events occasioning deductions.* * * *

The amount of an additional deduction required hereunder and the manner in which it is effected are the same as provided for deductions under section 203 (d) or (e) of the act on account of the event which such individual failed to report, except that the amount of the first additional deduction imposed against any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.

31. Section 403.504 is further amended by amending the example thereunder to read as follows:

Example: H is entitled to receive a primary insurance benefit of $25 for each month and W, his wife, is entitled to a wife's insurance benefit of $12.50. H renders services for wages of not less than $15 in each of 2 months. If either H or W or any person in receipt of benefits on their behalf reported this fact to the Administration, within the time stated in this section, the deduction from H's benefits would be $50, and the deduction from W's benefits would be $25. No additional deduction would be imposed against either.

If neither H nor W nor any person in receipt of benefits on their behalf reported to the Administration as required, and an additional deduction had previously been imposed against them for a prior failure to report, the deduction would be $100 from his benefits and $50 from W's benefits.

If no additional deduction had previously been imposed against H or W, the deduction as to H would be $75 and as to W would be $37.50.

If an additional deduction had previously been imposed against H but not against W, the deduction as to H would be $100 and as to W would be $37.50.

32. The first paragraph of § 403.505 (d) is amended to read:

§ 403.505 *Deductions because of lump-sum payments under original act and failure to pay taxes.* * * *

(d) *Relation to other provisions.* Amounts to be deducted hereunder are measured by and are withheld from amounts of benefits as reduced or increased under section 203 (a) or (b) of the act, or as reduced under section 202 (h) of the act, as amended, as set forth in § 403.503 (f)

33. The first paragraph in § 403.601 is amended so as to read:

§ 403.601 *Overpayments and underpayments.* Subsection (a) of section 204 of the act provides for adjustments, as set forth in paragraphs (a) and (b) of this section, in cases where an error has been made which results in an overpayment or underpayment to an individual under Title II of the act, including overpayments and underpayments prior to January 1, 1940. The provisions for adjustments also apply in cases where, through error, a reduction or increase required under section 203 (a) or (b) of the act, or a reduction under section 202 (h) of the act, as amended, or a deduction under section 203 (d) (e) or (h) of the act or under section 907 of the Social Security Act Amendments of 1939, is not made, and where such a reduction, increase, or deduction is made which is either larger or smaller than required (see §§ 403.502 to 403.505, inclusive) The term "overpayment," as used herein, includes a payment where nothing was payable under Title II of the act. The term "underpayment," as used herein, includes nonpayment where some amount was payable under that title.

34. Section 403.601, paragraph (c) is amended to read:

(c) *Relation to provisions for reductions and increases.* The amount of an overpayment or underpayment of a benefit is the difference between the amount paid to the beneficiary and the amount of such benefit as reduced or increased (if required) under section 203 (a) or (b) of the act or as reduced under section 202 (h) of the act, as amended (see § 403.502) Likewise, in effecting an adjustment with respect to an overpayment, no amount can be considered as having been withheld from a particular benefit, which is in excess of the amount of such benefit as so decreased.

35. The statutory provision from section 202 (h) of the act preceding § 403.701 is amended to read as follows:

SECTION 202 (h) OF THE ACT

An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end of the third month immediately succeeding such month. * * * [As amended by section 405 of the Act of August 10, 1946 (60 Stat. 987). The letter italicized was added. Applicable only to application for benefits filed after December 31, 1946.]

36. The statutory provisions preceding § 403.701 are further amended by inserting after section 202 (g) of the act and immediately preceding section 5 of the act approved August 13, 1940 (54 Stat. 785) the following:

SECTION 404 (c) OF THE ACT OF AUGUST 10, 1946 (60 STAT. 987)

In the case of any individual who, after December 6, 1941, and before the date of the enactment of this act, died outside the United States (as defined in section 1101 (a) (2) of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this act.

37. The first paragraph in § 403.701 (f) is amended to read as follows:

§ 403.701 *Filing of applications and other forms.* * * *

(f) *Time of filing applications for benefits.* An application for benefits will be accepted as an application for the purposes of this title if it is filed not more than three months prior to the first month for which the applicant could become entitled to such benefits. An application filed at any time after the first month for which the applicant could have been entitled to benefits will be accepted as an application for benefits for the purposes of this title, beginning with any of the three months immediately preceding the month in which it is filed, except that an application for primary insurance benefits filed prior to January 1, 1947, will not be accepted as an application, for the purposes of this title, for any month preceding the month in which it is filed.

38. Section 403.701, paragraph (f) is further amended by deleting the last paragraph of subparagraph (2) and Example 4.

39. Section 403.701, paragraph (g) is amended to read as follows:

(g) *Time of filing applications for lump sums.* An application for a lump sum must be filed within 2 years after the date of the death of the individual upon the basis of whose wages such lump sum is claimed (see § 403.408 (a) (3)) with the following exceptions:

(1) As provided in paragraph (j) of this section; and

(2) Where the death of such individual occurred outside the United States after December 6, 1941, and before August 10, 1946, such applications may be filed up to and including August 9, 1948.

40. The heading of § 403.704 is amended to read as follows:

§ 403.704 *Abandonment and withdrawal of applications and requests for wage-record revisions.*

41. Section 403.704 is further amended by deleting therefrom paragraph (c) and the example following.

42. The statutory provisions preceding § 403.827 are amended by inserting at the end thereof the following:

SECTION 414 OF THE ACT OF AUGUST 10, 1946 (60 STAT. 990)

(a) So much of section 209 (a) of the Social Security Act, as amended, as precedes paragraph (3) thereof is amended to read as follows:

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;

(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;

(3) That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;

(b) The paragraphs of section 209 (a) of such act heretofore designated "(3)" "(4)", "(5)" and "(6)" are redesignated "(4)", "(5)" "(6)" and "(7)", respectively.

43. Section 403.828, paragraph (a), subparagraph (1), is amended to read as follows:

§ 403.828 *Exclusions from wages*—(a) (1) *$3,000 limitation with respect to remuneration paid in 1940 or thereafter for employment during a calendar year prior to 1940.* Under section 209 (a) (1) of the act, any remuneration paid by an employer to an employee prior to January 1, 1947, for employment performed during any one calendar year after 1936 and prior to 1940, which is in excess of the first $3,000 of remuneration paid (whether before or after January 1, 1940) for employment performed during such year, is excluded. Thus, section 209 (a) (1) of the act excludes from wages such remuneration paid in 1940 or thereafter for employment performed during the calendar year 1937, 1938, or 1939, as is in excess of the first $3,000 of remuneration paid for employment performed during any single one of such years.

44. Section 403.828, paragraph (a), subparagraph (2), is amended to read as follows:

(2) *$3,000 limitation with respect to remuneration for employment during 1940 or thereafter* Under section 209 (a) (2) of the act, remuneration paid to an employee prior to January 1, 1947 (whether or not by one or more employers) for employment during any one calendar year after 1939 in excess of the first $3,000 paid to the employee, is excluded from "wages."

45. Section 403.828, paragraph (a), is amended by adding thereto a new subparagraph (3) with example as follows:

(3) *$3,000 limitation with respect to remuneration paid in 1947 or thereafter for employment.* Under section 209 (a) (3) of the act, remuneration paid to an employee after December 31, 1946 (whether or not by one or more employers), for employment in excess of the first $3,000 paid to the employee during any such calendar year is excluded from wages. Thus section 209 (a) (3) of the act excludes from wages such remuneration paid in any calendar year after 1946 which is in excess of the first $3,000 paid

in such calendar year whether the remuneration is attributable to employment in such calendar year or to employment in prior calendar years subsequent to 1936.

Example: Employee A, in 1946, is paid $2,500 by employer B on account of $3,500 due him for employment during that year. In 1947 A is paid by B the balance of $1,000 due him for employment during the prior year (1946) and also $3,000 for employment during 1947. Of the total remuneration of $4,000 paid to A in 1947 only $3,000 (the maximum creditable) is included in wages.

46. The statutory reference in the first line of § 403.828 (b) is amended to read "section 209 (a) (4) of the act."

47. The statutory provisions immediately preceding § 403.830 are amended to read as follows:

SECTION 209 (i) OF THE ACT

The term "wife" means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him [prior to January 1, 1939, or if later, prior to the date upon which he attained the age of sixty] *for a period of not less than thirty-six months immediately preceding the month in which her application is filed.* [As amended by section 408 of the Act of August 10, 1946 (60 Stat. 988). Applicable only to applications for benefits filed after December 31, 1946. The words in italics were added and the words in brackets were deleted by the amendment.]

48. Section 403.830 and examples 1 and 2 are amended to read as follows:

§ 403.830 *Definition of "wife."* Section 408 of the 1946 amendments to the act, which is applicable in cases of applications filed after December 31, 1946, eliminates the provision that a wife who is not the mother of the wage earner's son or daughter cannot qualify for wife's benefits unless she had been married to the wage earner before he attained age 60 or before January 1, 1939. The amendment permits a wife otherwise eligible for a wife's benefit to qualify after having been married to the wage earner for not less than 36 months immediately preceding the month in which her application is filed even though she is not the mother of the wage earner's son or daughter.

An individual is the "wife" of the wage earner as that term is used in Title II of the Act if she meets the following requirements:

(a) She is the wife of such wage earner, or has the same status as a wife, under applicable State law (see § 403.829) and

(b) She either

(1) Is the mother of the wage earner's son or daughter; or

(2) *Only in cases of applications filed prior to January 1, 1947* Was married to such wage earner (became his wife or acquired the status as such, under applicable State law) (i) prior to January 1, 1939, or, if later (ii) prior to the date upon which he attained the age of sixty; or

(3) *In cases of applications filed after December 31, 1946.* Was married to such wage earner (was his wife or held the status as such under applicable State law) for a period of not less than 36 calendar months immediately preceding the month in which her application is filed.

An individual is the mother of a wage earner's son or daughter within the meaning of paragraph (b) (1) of this section if a son or daughter was born to her and such wage earner, even though such son or daughter died before a claim for benefits was filed which involved the determination of whether such individual is a "wife."

Example 1: H, at the age of 66, married W on November 5, 1943. W is a wife under applicable State law.

In February 1946 H became entitled to a primary insurance benefit. In February 1947 W attained age 65 and applied for wife's insurance benefits.

Because H was married to W for a period of 36 calendar months immediately preceding the month in which she filed her application and because W is a wife under applicable State law, she is the "wife" of H within the meaning of this section.

Example 2: H and W who had been married for many years and were the parents of an adult son were divorced in 1939.

They remarried in October 1945. W is the wife of H under applicable State law.

In January 1946 H became entitled to a primary insurance benefit. In March 1947 W attained age 65 and applied for wife's insurance benefits.

Although W had not been married to H for a period of 36 calendar months immediately preceding the month in which she filed her application, she is the "wife" of H within the meaning of this section because she is his wife under applicable State law and is the mother of his son.

49. The statutory provisions immediately preceding § 403.832 are amended by inserting at the end thereof the following:

SECTION 409 OF THE ACT OF AUGUST 10, 1946 (60 STAT. 988)

(a) Section 209 (k) of such Act is amended to read as follows:

(k) The term "child" means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died.

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

50. Section 403.832 is amended to read as follows:

§ 403.832 *Definition of "child"* Section 409 of the 1946 amendments to the act, which is applicable in cases of applications filed after December 31, 1946, changes the definition of stepchild and adopted child contained in the 1939 Act. This section eliminates the requirement that in order for a stepchild or adopted child to qualify for a child's benefits, the relationship between the child and the wage earner must have been created by a marriage or an adoption which took place before the wage earner attained age 60 and prior to the beginning of the twelfth month before the month in which the wage earner died. The amendment permits a stepchild and an adopted child otherwise eligible for a child's benefit to qualify after the step-relationship or adoptive relationship has existed, where the wage earner is alive, for not less than 36 months immediately preceding the month in which application for child's benefits is filed; or where the wage earner is dead, for not less than 12 months immediately preceding the month in which the wage earner died.

An individual is a "child" as that term is used in Title II of the act (except as stated in § 403.403 (d) (2), under section 202 (g) of the act), if he meets the requirements under paragraphs (a) (b) or (c) of this section:

(a) *Children.* A son or daughter (by blood) of a wage earner, who is the child of such wage earner or has the same status as a child, under applicable State law (see § 403.829), is the "child" of such wage earner.

Example: A child C was born out of wedlock to M. Under the law of the State where M was domiciled (applicable State law), C is the child of M. C is the "child" of M within the meaning of this section.

(b) *Stepchildren*—(1) *Only in cases of applications filed prior to January 1, 1947.* An individual who is the stepchild of a wage earner by virtue of a marriage valid under applicable State law, which was contracted prior to the date upon which the wage earner attained the age of 60 and prior to the beginning of the twelfth month before the month in which the wage earner died, is a "child" of such wage earner.

Example: H and W, husband and wife, had a child C. H died. W then contracted a marriage with F, which was valid under the law of the State where she and F were domiciled (applicable State law). F was 35 at the time. Two years later F died. Under applicable State law a stepchild is not a child. C is nevertheless a "child" of F, since he was a stepchild of F by virtue of a marriage contracted prior to the date on which F attained the age of 60, and prior to the twelfth month before the month in which F died.

(2) *In cases of applications filed after December 31, 1946.* A stepchild of a wage earner is a "child" of such wage earner if the relationship was created by virtue of a marriage, valid under applicable State law, which was contracted:

(i) In the case of a living wage earner, at least 36 calendar months immediately preceding the month in which application for child's benefits is filed; or

(ii) In the case of a deceased wage earner, at least 12 calendar months immediately preceding the month in which such wage earner died.

Example: H and W, husband and wife, had a child C. H died. W then contracted a marriage with F on March 19, 1946, which was valid under the law of the State where she and F were domiciled (applicable State law). In April 1947, F dies. Under applicable State law a stepchild is not a child. C, is nevertheless, a "child" of F, since he was a stepchild of F by virtue of a marriage contracted at least 12 calendar months immediately preceding the month in which F died.

(c) *Adopted children*—(1) *Only in cases of applications filed prior to January 1, 1947.* An individual who was legally adopted by a wage earner in accordance with applicable State law, prior to the date upon which the wage earner attained the age of 60 and prior to the beginning of the twelfth month before

the month in which the wage earner died, is a "child" of such wage earner.

Example: F, at the age of 55, legally adopted C, in accordance with applicable State law. Two years later F died. C is the "child" of F, since he was adopted in accordance with applicable State law prior to the date upon which F attained age 60, and prior to the twelfth month before the month in which F died. It is immaterial whether C is considered a child under applicable State law.

(2) *In cases of applications filed after December 31, 1946.* A child who was legally adopted by a wage earner in accordance with applicable State law is a "child" of such wage earner if the adoption which created the relationship occurred:

(i) In the case of a living wage earner, at least 36 calendar months immediately preceding the month in which application for child's benefits is filed; or

(ii) In the case of a deceased wage earner, at least 12 calendar months immediately preceding the month in which such wage earner died.

Example: F at age 62, legally adopted C, age 6, on November 5, 1943, in accordance with applicable State law. In February 1947, F becomes entitled to primary insurance benefits and applies for child's benefits on behalf of C. C is the "child" of F, since he was adopted in accordance with applicable State law at least 36 calendar months immediately preceding the month in which application for child's benefits is filed.

51. The heading of § 403.834 is amended to read:

§ 403.834 *Definition of "living with." Wife or widow.*

52. A new § 403.835 is added immediately following § 403.834 as follows:

§ 403.835 *Definition of "living with." Widower* A widower shall be deemed to have been living with his wife at the time of her death if at such time they were members of the same household (see § 403.834 (a))

(49 Stat. 674, secs. 205 (a) and 1102, 53 Stat. 1368; 42 U. S. C. 405 (a) 1302; sec. 4 of Reorg. Plan No. 2 of 1946, 11 F. R. 7873; sec. 1 F S. A. order 57, July 16, 1946, 11 F R. 7943)

Dated: January 13, 1947.

[SEAL] A. J. ALTMEYER,
Commissioner for Social Security.

Approved: January 24, 1947.

WATSON B. MILLER,
Federal Security Administrator

[F. R. Doc. 47-847; Filed, Jan. 28, 1947; 8:45 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Priorities Order 3, as Amended Jan. 23, 1947]

PART 801—PRIORITIES ORDERS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

DELEGATION OF AUTHORITY

Housing Expediter Priorities Order 3 is amended to read as follows:

§ 801.3 *Delegation of authority*—(a) *What this section provides.* Housing Expediter Priorities Regulations 1, 2, and 4 relate to the disposal by War Assets Administration of materials and equipment needed in the Veterans' Emergency Housing Program. This section delegates to certain officials in the Office of the Housing Expediter the authority (1) to make certain determinations described in Housing Expediter Priorities Regulations 1 and 2, and (2) to issue Housing Expediter certificates in accordance with Housing Expediter Priorities Regulation 4, and to make findings in support of such certificates.

(b) *Sequence of filling orders under HEPR 1 and 2.* The Regional Housing Expediter of each Region of the Office of the Housing Expediter and the Deputy Expediter for Surplus Property and Re-use (and, in his absence, the Assistant Deputy Expediter for Surplus Property and Re-use) Office of the Housing Expediter, are hereby authorized to make the determinations described in paragraph (f) (2) of Housing Expediter Priorities Regulation 1 and in paragraph (f) (2) of Housing Expediter Priorities Regulation 2. These determinations relate to the sequence in which purchase orders received by War Assets Administration under HEPR 1 and 2 shall be accepted and filled by WAA.

(c) *Finding of short supply.* The Regional Housing Expediter of each Region of the Office of the Housing Expediter and the Deputy Expediter for Surplus Property and Re-use (and, in his absence, the Assistant Deputy Expediter for Surplus Property and Re-use), Office of the Housing Expediter, are hereby authorized to determine whether there is a shortage in the supply of any materials or equipment for which an application for a Housing Expediter certificate is filed under Housing Expediter Priorities Regulation A.

(d) *Housing Expediter certificates.* The Regional Housing Expediter of each Region of the Office of the Housing Expediter and the Deputy Expediter for Surplus Property and Re-use (and, in his absence, the Assistant Deputy Expediter for Surplus Property and Re-use) Office of the Housing Expediter, are hereby authorized to issue Housing Expediter certificates, in accordance with Housing Expediter Priorities Regulation 4, covering materials or equipment found by the Regional Housing Expediter or said Deputy Expediter or Assistant Deputy Expediter, respectively, in accordance with paragraph (c) of this section, to be in short supply. The said Deputy Expediter (and, in his absence, the said Assistant Deputy Expediter) is also hereby authorized to grant exceptions under paragraph (v) of HEPR 4. However, this section does not authorize the Regional Housing Expediters to issue Housing Expediter certificates upon applications filed under paragraphs (m) or (n) or to grant exceptions under paragraph (v) of HEPR 4.

(60 Stat. 207; 56 Stat. 177, as amended; E. O. 9638, 10 F R. 12591, CPA Directive 44, 11 F R. 8936)

Issued this 23d day of January 1947.

FRANK R. CREEDON,
Housing Expediter

[F. R. Doc. 47-866; Filed, Jan. 27, 1947; 3:41 p. m.]

[Priorities Reg. 1 as Amended Jan. 27, 1947]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

SURPLUS BUILDING MATERIALS AND EQUIPMENT

Par.

PURPOSE

(a) What this section provides.

RESTRICTIONS ON DISPOSALS BY WAA

(b) Building materials and equipment covered by this section.
(c) Agencies eligible during period prior to sale.
(d) Public advertisement.
(e) Offering period.
(f) Order of preference within priority groups described in paragraphs (e) (1) through (e) (4).
(g) Surplus Property Act priority groups.
(h) Minimum and maximum quantities.
(i) Other terms of disposal.

RESTRICTIONS ON BUYERS

(j) Authorized quantities.
(k) Use by persons described in paragraphs (e) (1) through (e) (4).
(l) Sales by persons described in paragraphs (e) (1) through (e) (4).
(m) Sales by dealers.

OTHER PROVISIONS

(n) Effect of Housing Expediter and OPA directives.
(o) Appeals.
(p) Violations.
(q) Reporting and record-keeping requirements.

§ 803.1 *Surplus building materials and equipment for the Veterans' Emergency Housing Program and the Veterans Administration Construction Program*—(a) *What this section provides.* This section, Housing Expediter Priorities Regulation 1, provides for channeling certain surplus building materials and equipment held by the War Assets Administration into the Veterans' Emergency Housing Program and the Veterans Administration Construction Program. The materials and equipment will be used in the first program for the construction of low and moderate cost housing accommodations, in the second for the construction of veterans' hospitals and other facilities. This section is deemed necessary and appropriate in the public interest and to effectuate the purposes of the Veterans' Emergency Housing Act of 1946.

The materials listed at the end of this section are suitable for the construction of housing accommodations and are in short supply. These materials, referred to in this section as "building materials and equipment," are not now available in sufficient quantities from new production. Unless otherwise directed by the Housing Expediter or the Civilian Production Administration, any disposal of any of the building materials and equipment covered by this section which are held as surplus by WAA must be made subject to this section.

RESTRICTIONS ON DISPOSALS BY WAA

(b) *Building materials and equipment covered by this section.* This section applies only to the building materials and equipment listed at the end of this section. It applies whether the listed building materials and equipment are new or used, and includes building materials and equipment recovered or salvaged from dismantled surplus property, if the dismantling is done under WAA direction and not by the purchaser. (Sales of surplus structures for dismantlement or other removal by the purchaser are governed by Housing Expediter Priorities Regulation 7.) As used in this section, the term "materials" includes items customarily referred to as "supplies."

(c) *Agencies eligible during period prior to sale.* During a period of time depending upon the type of building material or equipment and the method of sale and prior to the time any building materials or equipment covered by this section are first advertised or publicly offered for sale, such building materials or equipment may be transferred only to:

(1) The Veterans Administration for use in the Veterans Administration Construction Program.

(2) The Federal Public Housing Authority, to the extent directed by the Housing Expediter, for use under Title V of the act entitled "An Act to expedite the provision of housing in connection with the national defense, and for other purposes," approved October 14, 1940, as amended.

(3) Holders of unexpired Housing Expediter certificates (issued under Housing Expediter Priorities Regulation 4) or unexpired CPA urgency certificates (issued under Direction 16 to CPA Priorities Regulation 13)

As between a request for transfer received during this period from FPHA or VA, and an order from a certificate holder, WAA shall give preference to that which is first received.

Some WAA disposals under this section are of building materials and equipment resulting from the dismantlement of surplus government installations, and are conducted at the location of the dismantling operation. At any such site, during the period described in this paragraph, total transfers to FPHA and VA of building materials and equipment covered by this section shall not exceed 50% of the dollar value of all such materials and equipment available for disposal at the site.

(d) *Public advertisement.* During a period of time determined by WAA, the building materials or equipment remaining at the end of the period described in paragraph (c) of this section shall be publicly advertised by WAA for disposal to:

(1) Priority groups described in paragraphs (e) (1) through (e) (4) of this section.

(2) Priority groups established by the Surplus Property Act of 1944, as amended.

(3) Other buyers.

Such advertisement shall be addressed to as many of these priority groups, and other buyers, as WAA deems appropriate in view of the probable demand. The advertisement shall indicate that during a specified offering period orders will be filled in the order of preference provided for in paragraphs (e), (f), and (g) of this section.

In the case of building materials or equipment which are available in such small quantities that public advertisement would be impracticable, WAA may employ other forms of public offering.

During the advertising period (or other public offering) described in this paragraph, the Veterans Administration and Federal Public Housing Authority may not acquire any of the building materials or equipment covered by this section which are being offered for disposal.

(e) *Offering period.* During the offering period specified in the public advertisement (or other public offering) provided for in paragraph (d) of this section, WAA shall follow the order of preference set out below in disposing of any building materials or equipment covered by this section:

(1) *HEPR 4 certificates.* Holders of unexpired Housing Expediter certificates, or unexpired CPA urgency certificates.

(2) *HH and MM ratings.* Persons who give with their purchase orders a certificate in writing in substantially the following form:

The undersigned certifies to the War Assets Administration and the Housing Expediter, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that (1) he has been authorized to use an HH rating for the construction of housing accommodations, or for production of prefabricated housing, under the Veterans' Emergency Housing Program (or an MM rating for construction under the Veterans Administration Construction Program), (2) the following project or serial number(s) has (have) been assigned in connection with such construction or production: ----------, and (3) all the materials and equipment covered by this purchase order are required for and will be used in such construction or production.

(Signature)

(3) *Construction permits for veterans' housing.* Persons who give with their purchase orders a certificate in writing in substantially the following form:

The undersigned certifies to the War Assets Administration and the Housing Expediter, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that (1) he has been issued a construction permit under the Veterans' Emergency Housing Program for the construction of housing accommodations by a veteran for his own occupancy or to be sold or rented with preference to veterans (or he is employed as a contractor or subcontractor on such construction for which a VEHP construction permit has been issued), (2) the following VEHP project number(s) has (have) been assigned to such construction: ----------, and (3) all the materials and equipment covered by this purchase order are required for and will be used in such construction.

(Signature)

(4) *Other construction permits.* Persons who give with their purchase orders a certificate in writing in substantially the following form:

The undersigned certifies to the War Assets Administration and the Housing Expediter, subject to the criminal penalties of Section 35 (A) of the U. S. Criminal Code, that (1) he has been issued a construction permit for the construction of housing accommodations under the Veterans' Emergency Housing Program (or he is employed as a contractor or subcontractor on construction for which such a permit has been issued), (2) the following VEHP project number(s) has (have) been assigned to such construction: ----------, and (3) all the materials and equipment covered by this purchase order are required for and will be used in such construction.

(Signature)

(5) *Surplus Property Act priority groups.* Priority groups established by the Surplus Property Act of 1944, as amended.

(6) Other buyers.

At dismantlement sales of the kind described in paragraph (c) of this section, the above order of preference shall be modified by combining groups (1) through (4) above into one priority group, and giving equal preference to members of all four groups.

During the offering period covered by this paragraph, the Federal Public Housing Authority and Veterans Administration may not acquire any of the building materials or equipment covered by this section which are being offered for disposal, until after the preferences of groups (1) through (4) of this paragraph have been satisfied.

(f) *Order of preference within priority groups described in paragraphs (e) (1) through (e) (4).* Within each priority group (1) (2), (3), or (4) of paragraph (e) of this section, WAA shall follow the order of preference set out below in filling orders for building materials or equipment covered by this section:

(1) *In order of receipt.* Unless the Housing Expediter or WAA makes the determinations described in subparagraph (2) of this paragraph, WAA shall accept and fill orders in the sequence in which they are received by WAA.

(2) *By drawing of lots.* If the Housing Expediter or WAA determines, before the offering period described in paragraph (e) of this section begins, that:

(i) The amount of any building material or equipment covered by this section to be offered for disposal by WAA at a particular place will be inadequate to fill the expected orders from persons described in paragraph (e) (2) of this section (or from persons described in paragraph (e) (3) or (4) after the preceding preferences have been satisfied) and

(ii) The geographical distribution of such persons would work an unusual and inequitable hardship upon some of them if the "order of receipt" rule were applied as provided in subparagraph (1) of this paragraph,

WAA shall then fill orders from such persons in a sequence determined by the drawing of lots.

(g) *Surplus Property Act priority groups.* During the period described in paragraph (c) of this section, any disposal by WAA of building materials or equipment covered by this section shall be made without regard to the priority groups established by the Surplus Property Act of 1944, as amended. In addition, during the offering period described in paragraph (e) of this section, any disposal by WAA of building materials or equipment covered by this section to persons described in paragraphs (e) (1) through (4) shall be made without regard to the priority groups established by the Surplus Property Act. However, after the preferences of the persons described in paragraphs (e) (1) through (4) have been satisfied, WAA may dispose of the remainder of any lot of building materials or equipment in accordance with the Surplus Property Act and applicable regulations issued under that Act.

(h) *Minimum and maximum quantities.* During the offering period described in paragraph (e) of this section, WAA may dispose of any materials or equipment covered by this section:

(1) In such minimum quantities as WAA may determine.

(2) In such maximum quantities as WAA determines will be most equitable in view of the estimated demand for the particular building materials or equipment offered for disposal. However, if one or more purchase orders from persons described in paragraphs (e) (1) through (4) of this section remain partially unfilled at the end of the offering period, and if some of the particular building material or equipment covered by such orders remains undisposed of at the end of the offering period, WAA shall apply such material or equipment to the unfilled orders (in the order of preference provided for in paragraphs (e) (f), and (g) of this section)

(i) *Other terms of disposal.* During the periods described in paragraphs (c) and (e) of this section, WAA may dispose of any building materials or equipment covered by this section upon such terms and conditions as are not in conflict with this section.

RESTRICTIONS ON BUYERS

(j) *Authorized quantities.* The quantities of building materials or equipment obtained by use of the certificate described in paragraph (e) (2) of this section, together with the quantities obtained from other sources by use of the HH rating itself (or MM rating) must not exceed the quantities for which the use of the HH rating (or MM rating) was authorized.

(k) *Use by persons described in paragraphs (e) (1) through (e) (4)* As provided in HEPR 4, any person obtaining building materials or equipment by use of a Housing Expediter certificate may use the items only for the purpose for which the certificate was issued. Any person obtaining building materials or equipment by use of the certificate described in paragraph (e) (2) (3) or (4) of this section may use the items so obtained only in accordance with the terms of that certificate.

(l) *Sales by persons described in paragraphs (e) (1) through (e) (4)* If it becomes impossible for a person who acquired building materials or equipment by use of a Housing Expediter certificate to use them for the purpose for which the certificate was issued, they may be disposed of only as provided in HEPR 4. If it becomes impossible for a person who acquired building materials or equipment by use of the certificate described in paragraph (e) (2) (3) or (4) of this section to use all of them in accordance with the terms of that certificate, he must publicly offer for sale the unused building materials or equipment and must dispose of them only to persons who give a certificate as described in paragraphs (e) (2) through (4) of this section. In addition, he must not dispose of them even to such persons if he knows or has reason to believe, that they will be acquired, used, or disposed of in violation of this section.

(m) *Sales by dealers.* Any person who obtained building materials or equipment by use of the certificate formerly described in paragraph (e) (2) of this section (for regularly established sellers of building materials or equipment) must dispose of the building materials or equipment so obtained only in accordance with the terms of that certificate. In addition, he must not dispose of them even to persons eligible under the terms of the certificate if he knows, or has reason to believe, that they will be acquired, used, or disposed of in violation of this section.

OTHER PROVISIONS

(n) *Effect of Housing Expediter and CPA directives.* Directives issued by the Housing Expediter or the Civilian Production Administration shall take precedence over the disposal procedure outlined in this section. CPA directives shall take precedence over Housing Expediter directives.

(o) *Appeals.* Any person who considers that compliance with any provision in this section would result in an exceptional and unreasonable hardship on him may appeal for relief. An appeal shall be in the form of a letter in triplicate, addressed to the Housing Expediter, Washington 25, D. C., clearly stating the specific provision in the section appealed from and the grounds for claiming an exceptional and unreasonable hardship.

(p) *Violations.* Any person who willfully violates any provision of this section and any person who knowingly makes any statement to any department or agency of the United States, as to any matter within its jurisdiction, which is false in any respect, or who willfully conceals a material fact in any certificate required to be filed under this section, or who willfully falsifies any records required to be kept under this section, shall, upon conviction thereof, be subject to fine or imprisonment or both, under the Veterans' Emergency Housing Act of 1946 and other applicable Federal Statutes. Any such person or any other person who violates any provision of this section may be prohibited from making or obtaining any further deliveries of, or from using, any materials or facilities suitable for housing construction, and may be deprived of priorities assistance for such materials or facilities.

(q) *Reporting and record-keeping requirements.* Each person or agency participating in any transaction to which this section is applicable shall complete and preserve, for at least two years after each such transaction, accurate and complete records of the details of the transaction. All persons affected by this section shall file such information and reports as may be required by the Housing Expediter (or person or agency authorized by him to make such requests), subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942. The record-keeping requirements of this section have been approved by the Bureau of the Budget in accordance with that Act.

(60 Stat. 207; 56 Stat. 177, as amended; E. O. 9638, 10 F R. 12591, CPA Directive 44, 11 F R. 8936)

Issued this 27th day of January 1947.

FRANK R. CREEDON,
Housing Expediter

TABLE OF BUILDING MATERIALS AND EQUIPMENT COVERED BY THIS SECTION

NOTE: Table revised Jan. 27, 1947.

Aluminum, plate, sheet and strip and shapes.
Asbestos cement pipe and fittings.
Asbestos flat sheets.
Bends, lead.
Boilers, low pressure residential heating.
Brick, common and face.
Brick, sand-lime.
Building sections, knocked down, portable, metal.
Burners, oil, domestic, apartment-type and hot water heating.
Burner units, boiler.
Casements, metal.
Caulking, lead.
Cement, Portland.
Conduit, electrical, ¾" to 2" incl.
Controls, oil burners.
Door frames, metal.
Fabricated structural shapes and forms, iron and steel, suitable for housing construction only.
Felt, roofing, dry.
Fittings, conduit, metal.
Fittings, threaded, malleable, and cost iron, brass and bronze.
Floor coverings, hard-surface.
Flooring, hardwood, including stair treads.
Fractional h. p. motors, ⅛ to ½ h. p. inclusive.
Furnaces, warm air (gravity circulation, wall, floor, and forced air circulation).
Furnaces, gas fixtures.
Furnace pipe, fittings and duct work.
Glass, window, common, sheet.
Gutters and downspouts, metal.
Gypsum board.

Gypsum lath.
Gypsum plank, metal bound.
Hardboard, (tempered, untempered).
Hardware, builders'.
Hot water circulation, condensation, and vacuum heating pumps.
Insect screen cloth, metal.
Insulation board.
Insulation, flexible.
Insulators, electric.
Lath, metal, and accessories.
Lath, insulated.
Lime, finish and masonry.
Linoleum.
Linseed oil, raw and boiled.
Lumber.
Millwork, including frames, moulding, sash, doors, and built-in kitchen cabinets.
Nails, 20d and under, all types.
Paint, pigments, all types, thinners, dryers and varnishes.
Panels, sections, prefabricated, all types.
Paper, building and sheathing.
Pipe, lead, and fittings up to 1½"
Pipe, wrought iron and steel and fittings, black and galvanized.
Plaster, hardwall.
Plumbing fixtures:
Bathtubs.
Kitchen sinks and undersink cabinets. (This includes sinks and sink-and-tray combinations, undersink cabinets with or without sinks, and any fixture containing a kitchen sink.)
Lavatories.
Water closets (1-piece combinations; and bowls and tanks, separately or in combination).
Plumbing fixtures fittings and trim, brass, bronze and steel.
Prefabricated structures suitable for housing (except fixed structures in place).
Putty.
Radiation, cast iron, tubular, cast iron convector, extended surface convector.
Range boilers, water; domestic, without coils or burner.
Refrigerators, domestic.
Registers and grilles, warm air; steel, other than ornamental.
Roofing; asphalt, asbestos, wood and metal.
Sash weights.
Screens, metal.
Septic tanks, all metal, reinforced concrete.
Sewer drain pipe, bituminized fiber.
Sewer pipe, clay, and fittings.
Sheathing, insulation.
Sheet, copper.
Sheet steel, form panels for foundation walls.
Siding, shingles, asbestos cement.
Softwood plywood.
Soil pipe, cast iron.
Steel, bars, rods, mesh reinforcing.
Steel sheets, galvanized and black.
Tanks, storage, up to 550 gals., for oil, water, and liquefied gas.
Termite shields, metal.
Terneplate and roofing.
Tile, gypsum, except partition.
Tile, asphalt.
Tile, structural clay, hollow.
Traps, lead.
Tubing, copper, ½" to 1¼" inclusive.
Valves, iron and brass, stop and waste up to 2"
Veneer, softwood.
Wallboard, fiber, laminated.
Water heaters, electric, side-arm, indirect, and direct-fire storage type.
Weather stripping, rubber, wood and metal.
Windows, window frames, metal.
Wire, copper, insulated (including Romex 8 B-X cable).
Wire, domestic use.
Wire, stucco mesh.
Wiring devices, electrical, residential type; such as switches, receptacles, wall plates.

[F. R. Doc. 47-884; Filed, Jan. 27, 1947; 3:41 p. m.]

[Priorities Reg. 2 as Amended Jan. 27, 1947]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

SURPLUS MATERIALS AND EQUIPMENT

PURPOSE

Par.

PURPOSE

§ 803.2 *Surplus materials and equipment for utilities servicing the Veterans' Emergency Housing Program and the Veterans Administration Construction Program*—(a) *What this section provides.* This section, Housing Expediter Priorities Regulation 2, provides for the channeling of certain surplus materials and equipment held by the War Assets Administration into the construction and maintenance of utilities (water, power, gas, or sewerage) which are necessary for housing accommodations constructed under the Veterans' Emergency Housing Program, and for hospitals and other facilities constructed under the Veterans Administration Construction Program. This section is deemed necessary and appropriate in the public interest and to effectuate the purposes of the Veterans' Emergency Housing Act of 1946.

The materials listed in the table at the end of this section are suitable for the construction of housing accommodations and are in short supply. These materials, referred to in this section as "materials and equipment," are not now available in sufficient quantities from new production. Unless otherwise directed by the Housing Expediter or the Civilian Production Administration, any disposal by War Assets Administration of any of these materials or equipment held as surplus by WAA must be made subject to this section. Under this section, first opportunity for acquiring such materials and equipment held as surplus property by WAA is given to persons and governmental agencies and instrumentalities acquiring for use in utilities for the Veterans' Emergency Housing Program and the Veterans Administration Construction Program. Special provision is made for a utility or governmental agency or instrumentality to use materials or equipment purchased under this section, to meet a public emergency arising within six months after such purchase and endangering the health or safety of a community.

RESTRICTIONS ON DISPOSALS BY WAA

(b) *Materials and equipment covered by this section.* This section applies only to the materials and equipment listed at the end of this section. It applies whether the listed materials and equipment are new or used, and includes materials and equipment recovered or salvaged from dismantled surplus property, if the dismantling is done under WAA direction and not by the purchaser. (Sales of surplus utilities for removal by the purchaser are governed by Housing Expediter Priorities Regulation 7.) As used in this section, the term "materials" includes items customarily referred to as "supplies."

(c) *Agencies eligible during period prior to sale.* During a period of time depending upon the type of material or equipment and the method of sale, and prior to the time any materials or equipment covered by this section are first advertised or publicly offered for sale, such materials or equipment may be transferred only to:

(1) The Veterans Administration for use in the Veterans Administration Construction Program.

(2) The Federal Public Housing Authority, to the extent directed by the Housing Expediter, for use under Title V of the Act entitled "An Act to expedite the provision of housing in connection with the national defense, and for other purposes," approved October 14, 1940, as amended.

(3) Holders of unexpired Housing Expediter certificates (issued under Housing Expediter Priorities Regulation 4) or unexpired CPA urgency certificates (issued under Direction 16 to CPA Priorities Regulation 13).

As between a request for transfer received during this period from FPHA or VA, and an order from a certificate holder, WAA shall give preference to that which is first received.

Some WAA disposals under this section are of materials and equipment resulting from the dismantlement of surplus government installations, and are conducted at the location of the dismantling operation. At any such site, during the period described in this paragraph, total transfers to FPHA and VA of materials and equipment covered by this section shall not exceed 50% of the dollar value of all such materials and equipment available for disposal at the site.

(d) *Public advertisement.* During a period of time determined by WAA, the materials or equipment remaining at the end of the period described in paragraph (c) of this section shall be publicly advertised by WAA for disposal to:

(1) Priority groups described in paragraphs (e) (1) through (e) (4) of this section.

(2) Priority groups established by the Surplus Property Act of 1944, as amended.

(3) Other buyers.

Such advertisement shall be addressed to as many of these priority groups, and other buyers, as WAA deems appropriate in view of the probable demand. The advertisement shall indicate that during a specified offering period orders will be filled in the order of preference provided for in paragraphs (e) (f) and (g) of this section.

In the case of materials or equipment which are available in such small quantities that public advertisement would be impracticable, WAA may employ other forms of public offering.

During the advertising period (or other public offering) described in this paragraph, the Veterans Administration and Federal Public Housing Authority may not acquire any of the materials or equipment covered by this section which are being offered for disposal.

(e) *Offering period.* During the offering period specified in the public advertisement (or other public offering) provided for in paragraph (d) of this section, WAA shall follow the order of preference set out below in disposing of any materials or equipment covered by this section:

(1) Holders of unexpired Housing Expediter certificates, or unexpired CPA urgency certificates.

(2) State or local governmental agencies or instrumentalities that give with their purchase orders a certificate in writing in substantially the following form:

The undersigned certifies to the War Assets Administration and the Housing Expediter, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that all the usable materials and equipment covered by this purchase order (1) are required for construction or maintenance of utilities (water, power, gas, sewerage) necessary to service housing accommodations the construction of which has been authorized, prior to the date of this certificate, under the Veterans' Emergency Housing Program (or construction for which priorities assistance has been assigned under the Veterans Administration Construction Program), and (2) will be used within six months from the date of this order (i) in the construction or maintenance of such utilities, (ii) in replacing equivalent materials which will be used in the construction or maintenance of such utilities, or (iii) for the repair of an essential utility servicing other housing accommodations, if necessary to meet a public emergency in connection with such utility which endangers the health or safety of a community, but not for normal maintenance, repair, or operation of such utility.

Signature

(3) Publicly or privately owned utilities that give with their purchase orders a certificate in writing in substantially the form set out in subparagraph (2) of this paragraph.

(4) Contractors, subcontractors, or builders who give with their purchase orders a certificate in writing in substantially the following form:

The undersigned certifies to the War Assets Administration and the Housing Expediter, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that all the usable materials and equipment covered by this purchase order are required for and within six months of the date of this purchase order will be used in construction or maintenance of utilities (water, power, gas, sewerage) necessary to service housing accommodations the construction of which has been authorized, prior to the date of this certificate, under the Veterans' Emergency Housing Program, or construction for which priorities assistance has been assigned under the Veterans Administration Construction Program.

Signature

(5) Priority groups established by the Surplus Property Act of 1944, as amended.

(6) Other buyers.

At dismantlement sales of the kind described in paragraph (c) of this section, the above order of preference shall be modified by combining groups (1) through (4) above into one priority group, and giving equal preference to members of all four groups.

During the offering period covered by this paragraph, the Federal Public Housing Authority and Veterans Administration may not acquire any of the materials or equipment covered by this section which are being offered for disposal, until after the preferences of groups (1) through (4) of this paragraph have been satisfied.

(f) Order of preference within priority groups described in paragraphs (e) (1) through (e) (4) Within each priority group (1) (2) (3) or (4) of paragraph (e) of this section, WAA shall follow the order of preference set out below in filling orders for materials or equipment covered by this section:

(1) *In order of receipt.* Unless the Housing Expediter or WAA makes the determinations described in subparagraph (2) of this paragraph, WAA shall accept and fill orders in the sequence in which they are received by WAA.

(2) *By drawing of lots.* If the Housing Expediter or WAA determines, before the offering period described in paragraph (e) of this section begins, that:

(i) The amount of any material or equipment covered by this section to be offered for disposal by WAA at a particular place will be inadequate to fill the expected orders from persons, agencies and instrumentalities described in paragraph (e) (2) of this section (or from persons, agencies, and instrumentalities described in paragraph (e) (3) or (4) after the preceding preferences have been satisfied) and

(ii) The geographical distribution of such persons, agencies and instrumentalities would work an unusual and inequitable hardship upon some of them if the "order of receipt" rule were applied as provided in subparagraph (1) of this paragraph,

WAA shall then fill orders from such persons in a sequence determined by the drawing of lots.

(g) *Surplus Property Act priority groups.* During the period described in paragraph (c) of this section, any disposal by WAA of materials or equipment covered by this section shall be made without regard to the priority groups established by the Surplus Property Act of 1944, as amended. In addition, during the offering period described in paragraph (e) of this section, any disposal by WAA of materials or equipment covered by this section to persons, agencies or instrumentalities described in paragraphs (e) (1) through (e) (4) of this section shall be made without regard to the priority groups established in the Surplus Property Act. However, after the preferences of such persons, agencies and instrumentalities have been satisfied, WAA may dispose of the remainder of any lot of materials or equipment in accordance with the Surplus Property Act and applicable regulations issued under that Act.

(h) *Minimum and maximum quantities.* During the offering period described in paragraph (e) of this section, WAA may dispose of any materials or equipment covered by this section:

(1) In such minimum quantities as WAA may determine.

(2) In such maximum quantities as WAA determines will be most equitable in view of the estimated demand for the particular materials or equipment offered for disposal. However, if one or more purchase orders from persons described in paragraphs (e) (1) through (e) (4) of this section remain partially unfilled at the end of the offering period, and if some of the particular material or equipment covered by such orders remains undisposed of at the end of the offering period, WAA shall apply such material or equipment to the unfilled orders (in the order of preference provided for in paragraphs (e), (f), and (g) of this section)

(i) *Other terms of disposal.* During the offering periods described in paragraphs (c) and (e) of this section, WAA may dispose of any materials or equipment covered by this section upon such other terms and conditions as are not in conflict with this section.

RESTRICTIONS ON BUYERS

(j) *Use by persons, agencies, or instrumentalities described in paragraphs (e) (1) through (e) (4)* As provided in HEPR 4, any person or governmental agency or instrumentality obtaining materials or equipment by use of a Housing Expediter certificate may use the items only for the purpose for which the certificate was issued. Any person, agency, or instrumentality obtaining materials or equipment by use of the certificate described in paragraph (e) (2), (e) (3), or (e) (4) of this section may use the materials or equipment so obtained only in accordance with the terms of that certificate.

(k) *Sales by persons, agencies or instrumentalities described in paragraphs (e) (1) through (e) (4)* If it becomes impossible for a person, agency or instrumentality who acquired materials or equipment by use of a Housing Expediter certificate to use them for the purpose for which the certificate was issued, the items may be disposed of only as provided in HEPR 4. If it becomes impossible for a person, agency, or instrumentality who acquired usable materials or equipment by use of the certificate described in paragraph (e) (2) (3) or (4) of this section to use all of them in accordance with terms of that certificate, he must publicly offer for sale such unused materials or equipment and must dispose of them only to a person or governmental agency or instrumentality as described in paragraphs (e) (2) through (e) (4) of this section. In addition, he must not dispose of them even to such persons, agencies, or instrumentalities if he knows, or has reason to believe, that they will be acquired, used, or disposed of in violation of this section.

OTHER PROVISIONS

(l) *Effect of Housing Expediter and CPA directives.* Directives issued by the Housing Expediter or the Civilian Production Administration shall take precedence over the disposal procedure outlined in this section. CPA directives shall take precedence over Housing Expediter directives.

(m) *Appeals.* Any person who considers that compliance with any provisions of this section would result in an exceptional and unreasonable hardship on him may appeal for relief. An appeal shall be in the form of a letter in triplicate, addressed to the Housing Expediter, Washington 25, D. C., clearly stating the specific provision of the section appealed from and the grounds for claiming an exceptional and unreasonable hardship.

(n) *Violations.* Any person who wilfully violates any provision of this section or who knowingly makes any statement to the Housing Expediter or the War Assets Administration, as to any matter within their respective jurisdictions, which is false in any respect, or who willfully conceals a material fact in any certificate required to be executed under this section, or who wilfully falsifies any records required to be kept under this section, shall, upon conviction thereof, be subject to fine or imprisonment or both, under the Veterans' Emergency Housing Act of 1946 and other applicable federal statutes. Any such person or any other person who violates any provision of this section may be prohibited from making or obtaining any further deliveries of, or from using, any materials or facilities suitable for housing construction, and may be deprived of priorities assistance for such materials or facilities.

(o) *Reporting and record-keeping requirements.* Each person or agency participating in any transaction to which this section is applicable shall complete and preserve, for at least two years after each such transaction, accurate and complete records of the details of the transaction. All persons affected by this section shall file such information and reports as may be required by the Housing Expediter (or any person or agency authorized by him to make such requests) subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942. The record-keeping requirements of this section have been approved by the Bureau of the Budget in accordance with that Act.

(60 Stat. 207; 56 Stat. 177, as amended; E. O. 9638, 10 F R. 12591, CPA Directive 44, 11 F R. 8936)

Issued this 27th day of January 1947.

FRANK R. CREEDON,
Housing Expediter.

TABLE OF MATERIALS AND EQUIPMENT COVERED BY THIS SECTION

NOTE: Table amended Jan. 27, 1947.

Braided hemp and yarn, for water, gas and sewer pipes.
Cable, electrical, lead covered.
Corporation cocks, brass, up to and including 2" for water.
Goosenecks, lead, with and without brass fittings, up to and including 2" water.
Hydrants, fire, all types, for water.
Insulators, for power.
Lead, caulking.
Lightning arresters, for power.
Manhole frames and covers, cast iron, all types.
Meters:
- (a) Electrical domestic.
- (b) Gas, tinned steel and cast iron, for gas.
- (c) Water, ⅝" to 2"

Meter boxes:
- (a) Frames and covers (all types) for water.
- (b) Steel, for power.

Meter stops, up to and including 1½" for gas.
Pipe:
- (a) Asbestos-cement, up to and including 24"
- (b) Black, wrought, galvanized iron (services) up to and including 2" for gas and water.
- (c) Cast iron pressure, up to and including 24"
- (d) Steel (mains) up to and including 12" for gas and water.
- (e) Vitrified tile up to and including 24" sewers.

Pipe fittings:
- (a) Cast iron and asbestos-cement (mains) up to and including 24" and stops.
- (b) Black and galvanized iron (services) up to and including 2"
- (c) Vitrified clay fittings.
- (d) Couplings and fittings for steel pipe.

Poles and cross arms, wood distribution type, power.
Pole-line hardware, for power.
Regulators, gas.
Transformers, up to and including 50 Kva.
Tile, open joint, up to and including 6" for drainage and septic tank fields.
Tubing, copper and copper alloy, up to and including 2" for water and gas.
Service boxes, cast iron, for gas and water.
Valves, up to and including 24" for gas and water (mains and pipes).
Valve boxes and covers, cast iron, water and gas.
Wire, copper, electrical, insulated, weatherproofed, and bare.

[F. R. Doc. 47-883; Filed, Jan. 27, 1947; 3:40 p. m.]

[Priorities Reg. 4, as Amended, Jan. 27, 1947]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS EMERGENCY HOUSING ACT OF 1946

CERTIFICATES AND DIRECTIVES FOR SURPLUS MATERIALS AND EQUIPMENT

PURPOSE

DEFINITIONS

MATERIALS AND EQUIPMENT COVERED

APPLICATIONS FOR HOUSING EXPEDITER CERTIFICATES

GENERAL CONDITIONS FOR APPROVAL

SPECIAL CONDITIONS FOR APPROVAL

EFFECT OF HOUSING EXPEDITER CERTIFICATES

USE OF HOUSING EXPEDITER CERTIFICATES

HOUSING EXPEDITER DIRECTIVES

RESTRICTIONS ON BUYERS

OTHER PROVISIONS

PURPOSE

§ 803.4 *Housing Expediter certificates and directives for surplus materials and equipment—(a) What this section provides.* This section, Housing Expediter Priorities Regulation 4, explains how special assistance, in the form of Housing Expediter certificates, will be extended to qualified persons in obtaining from War Assets Administration surplus materials or equipment which are needed for construction or production under the Veterans' Emergency Housing Program.

The Housing Expediter certificates issued under this section provide the holders with a preference in acquiring from WAA the materials and equipment listed in the certificate. They are good only for government property declared surplus to WAA. Prior to January 16, 1947, Housing Expediter certificates could be used only to obtain surplus property

which had not yet been publicly advertised for sale by WAA. These certificates may now be used, as provided in this section, to obtain either unadvertised or advertised surplus.

This section explains: (1) How applications for such certificates should be filed. (2) The standards for approval of applications. (3) How certificates are issued. (4) Effect of certificates.

It also tells how, in unusual cases, Housing Expediter directives may be issued for materials or equipment for use in the Veterans' Emergency Housing Program.

DEFINITIONS

(b) *Definitions.* For the purpose of this section:

(1) An "industrially-made house, section or panel" is one which is made in a factory or, in the case of concrete, precast either in a factory or on the building site. The term does not include house trailers.

(2) A "critical product" is one which the Housing Expediter has determined to be in such tight supply that the shortage of the product presents a serious threat to the Veterans' Emergency Housing Program. All such products are listed in the table at the end of this section.

(3) "New type building material" means any building material which possesses some characteristics (such as composition, application, or design) different from existing conventional types of building materials.

(4) "Person" means any individual, partnership, association, business trust, corporation, or any other organized group of persons (whether incorporated or not), or any federal, state or local government, or agency, instrumentality or subdivision thereof.

(5) "VEHP" means the Veterans' Emergency Housing Program.

(6) "MRO" means maintenance, repair, or operating supplies (including spare and replacement parts)

(7) "CPA urgency certificate" means a certificate issued under Direction 16 to Civilian Production Administration Priorities Regulation 13.

(8) "WAA" means the War Assets Administration.

(9) "OHE" means the Office of the Housing Expediter.

(10) "This section" or "HEPR 4" means Housing Expediter Priorities Regulation 4.

MATERIALS AND EQUIPMENT COVERED

(c) *Types of materials and equipment.* A Housing Expediter certificate may be issued for the following types of materials and equipment, if they are in short supply:

(1) Production materials which are to be incorporated directly into a product.

(2) Construction materials (building materials, supplies and equipment) including the items listed in HEPR 1 and 2 and other items in short supply.

(3) Capital equipment to be used for construction, production, or services.

(4) MRO.

NOTE: The table of "critical products" at the end of this section is *not* a list of the materials and equipment for which certificates will be issued under this section. It is to be used only in determining who is eligible under paragraph (1) of this section.

(d) *WAA stocks covered.* This section covers all materials and equipment of the types described in paragraph (c) of this section which are held by WAA as government-owned surplus.

APPLICATIONS FOR HOUSING EXPEDITER CERTIFICATES

(e) *Filing of applications.* Applications under this section should be filed as follows:

(1) *Certificates.* Applications for Housing Expediter certificates should be made in duplicate on Form OHE 14-82. Copies of this form may be obtained from the offices of the Regional Housing Expediters and Locality Housing Expediters. All applications should be addressed to the Regional Housing Expediter of the Region in which the applicant's place of business is located. Applications filed under paragraph (m) or (n) of this section will be forwarded by the Regional Expediter, with his recommendations, to the Housing Expediter, Washington, D. C.

(2) *Renewals.* If the holder of a Housing Expediter certificate is unable to obtain the materials or equipment covered by the certificate within 15 days before it expires, he may apply for a renewal to the office which issued the certificate. He should apply by letter, and include a certification in substantially the following form:

The undersigned hereby certifies, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that the information and statements contained in his application dated _____ for a Housing Expediter certificate are true, to the best of his knowledge and belief, as of the date of this letter. He also certifies that the items covered by certificate No. _____ issued upon that application are still needed and will be used in the Veterans' Emergency Housing Program, in accordance with that application and Housing Expediter Priorities Regulation 4.

(f) *Consideration of applications.* Applications for Housing Expediter certificates, and for renewals of such certificates, will be considered for approval in the following way:

(1) *Qualified applications.* An application will be considered qualified if it is properly completed and meets the standards for approval described in paragraphs (h) through (n) of this section.

(2) *Veterans' set-aside list.* A Housing Expediter certificate covering an item on the WAA veterans' set-aside list will be issued only if the applicant is a veteran who holds a WAA veterans' certificate (Form 63, 73, or 1127) for the same item.

(3) *Inventory restriction.* An application will not be approved which calls for more production materials or operating supplies than the applicant requires to meet his scheduled operations during the 60 days immediately following the date of his application, less the amount he has on hand and expects to receive from other sources during that period.

(g) *Issuance of certificates.* Housing Expediter certificates, and renewals of such certificates, will be issued in the following way on approved applications:

(1) *Applications under paragraphs (i) through (l)* If the application is approved, the Regional Housing Expediter will issue a Housing Expediter certificate covering the required materials or equipment. The original will be forwarded to the applicant. A duplicate and triplicate will be forwarded to the appropriate WAA Zone Office.

(2) *Applications under paragraphs (m) and (n)* When an application is forwarded to the Housing Expediter (see paragraph (e) of this section), he will consider it for approval and issue a Housing Expediter certificate upon a qualified application in the same manner as described in subparagraph (1) of this paragraph.

(3) *Renewals.* Applications for renewals will be handled in the same way as original applications. If a renewal application is approved, the certificate holder's copy will be marked to indicate this, and a "renewal notice" will be sent to the appropriate WAA Office.

GENERAL CONDITIONS FOR APPROVAL

(h) *General conditions for approval of applications.* It is not the general policy of the Housing Expediter to channel government surplus materials and equipment to the Veterans' Emergency Housing Program through Housing Expediter certificates. Housing Expediter Priorities Regulations 1 and 2 are designed to channel into the VEHP, on a self-certifying basis, certain materials and equipment listed in those regulations. Except for the equipment listed in paragraph (o) (5) of this section, all materials and equipment not specifically listed in either HEPR 1 or 2 are normally disposed of in accordance with the Surplus Property Act and applicable regulations issued under that Act.

There are circumstances, however, which this regulation is designed to cover, under which Housing Expediter certificates will be issued. These circumstances include certain general conditions which must be met by the applicant. They are as follows:

(1) It must be determined by the Housing Expediter that the applicant's proposed use of the surplus materials or equipment requested will make a substantial contribution to the VEHP

(2) The applicant must show that he has been unable to get the materials or equipment as soon as he needs them from sources other than government-owned surplus.

(3) In the case of construction equipment, the applicant must show that he has been unable to procure contractual services as soon as he needs them to carry out the work for which the construction equipment is required.

(4) The applicant must purchase the materials or equipment for use and not for resale, except in the case of established service and maintenance organizations who supply both parts and services to producers of any of the critical products listed at the end of this section.

In addition to the general conditions of this paragraph, an applicant must also

meet one of the six special conditions described in one of the paragraphs (i) through (n) of this section.

SPECIAL CONDITIONS FOR APPROVAL

(i) *Continuous use of construction equipment for VEHP* If the general conditions in paragraph (h) of this section are met, a Housing Expediter certificate may be issued for an item of construction equipment which is in short supply if:

(1) The applicant is a builder; building contractor; building subcontractor; erector of industrially-made houses, sections or panels; or a publicly or privately owned utility (water, power, gas, sewerage) and

(2) The Housing Expediter finds that the applicant is likely to make substantially continuous use of the equipment in support of the VEHP.

(j) *To avoid serious delays in VEHP* If the general conditions in paragraph (h) of this section are met, a Housing Expediter certificate may be issued for an item of production material, construction material, capital equipment, or MRO, if:

(1) The applicant is a builder; building contractor; building subcontractor; erector of industrially made houses, sections or panels; or a publicly or privately owned utility (water, power, gas, sewerage) and

(2) The Housing Expediter finds the item to be in such short supply that if it is not made available from surplus it will delay for a substantial period of time the construction of a large number of housing accommodations which have been partially completed under the VEHP. (If an applicant under this paragraph is a utility, it is not necessary that the housing accommodations be partially completed.)

(k) *Industrially made houses, sections or panels.* If the general conditions in paragraph (h) of this section are met, a Housing Expediter certificate may be issued for an item of production material, construction material, capital equipment, or MRO which is in short supply and is needed by a producer of industrially-made houses, sections, or panels as defined in paragraph (b) (1) of this section.

(l) *Critical products.* If the general conditions in paragraph (h) of this section are met, a Housing Expediter certificate may be issued for an item of production material, construction material, capital equipment, or MRO which is in short supply and is needed by

(1) A producer of a "critical product" that is listed in the table at the end of this section. (For the definition of "critical product" see paragraph (b) (2) of this section.) It should be emphasized that it is the materials or equipment needed to produce the critical product, rather than the critical product itself, for which a Housing Expediter certificate may be issued under this paragraph.

(2) A person who will use the item to provide a necessary service to a producer of a "critical product," such as a road building contractor providing access roads for a producer of logs.

(3) A person who will use the item to produce production materials or MRO needed by a producer of a "critical product." In order for an applicant to be eligible under this subparagraph, a very high proportion of his output of such production materials or MRO must be sold to producers of "critical products." An example of a person eligible under this subparagraph is a producer of molding sand to be sold to producers of cast iron soil pipe.

(m) *New type building materials.* If the general conditions in paragraph (h) of this section are met, a Housing Expediter certificate may be issued for an item of production material, construction material, capital equipment, or MRO which is in short supply and is needed by a producer of a "new type building material" which has been approved by the Housing Expediter for use in the VEHP.

(n) *Basic materials.* If the general conditions in paragraph (h) of this section are met, a Housing Expediter certificate may be issued for an item of production material, construction material, capital equipment, or MRO which is in short supply and is needed by a Federal, State, or local governmental agency or instrumentality or persons under contract with such agency or instrumentality for use in a specific program established by the Expediter (in cooperation with the applicant agency or instrumentality) to increase the production of a basic material, such as logs, for the VEHP.

EFFECT OF HOUSING EXPEDITER CERTIFICATES

(o) *Effect of Housing Expediter certificates.* WAA shall give the following effect to Housing Expediter certificates:

(1) *Valid for 60 days.* A Housing Expediter certificate shall be valid for 60 days after its date of issuance, and for an additional 60 days if it is renewed.

(2) *Search by WAA.* Each WAA Zone Office, upon receiving a copy of a Housing Expediter certificate, shall determine promptly whether the materials or equipment described in the certificate are in WAA stocks located within the WAA Zone. However, no such search need be made for items covered by HEPR 1 or 2.

(3) *Methods of disposal.* If the WAA Zone Office locates the materials or equipment covered by the Housing Expediter certificate, the items shall be disposed of by one of the following methods, as determined by the WAA Zone Administrator:

(i) Through sale by notification (prior to public advertisement) to holders of Housing Expediter certificates and CPA urgency certificates.

(ii) By transfer (prior to public advertisement) to the Federal Public Housing Authority for use under Title V of the Lanham Act, as amended; or to the Veterans Administration for use in the Veterans Administration Construction Program.

(iii) By publicly advertised sale to Housing Expediter certificate holders, CPA urgency certificate holders, and others.

Unless otherwise directed by CPA or the Housing Expediter, disposal must be by one of these three methods.

(4) *Order of preference before advertising.* In disposing of any of the materials or equipment covered by this section before they have been publicly advertised, each WAA Regional Office shall honor whichever of the following two is received first:

(i) An order from a certificate holder.

(ii) A request for transfer from the Federal Public Housing Authority or the Veterans Administration.

(5) *Public advertisement.* Before any of the following equipment is disposed of by WAA (other than as described in subparagraphs (3) (i) and (ii) of this paragraph, or upon a Housing Expediter or CPA directive), they shall be publicly advertised by the WAA Regional Office as provided in this subparagraph:

Attachments disposed of separately from cranes: boom, crane, dragline, clamshell, shovel, pile driver, backhoe, or trenchhoe attachments.
Attachments disposed of separately from tractors: bulldozer, angledozer, power control unit, hydraulic pumps, towing winch, loader, or hoists.
Batching plants.
Cranes: Truck mounted and crawler-type of ⅜, ½, ¾, 1¼ to 1½, 1¾ to 2, and 2½ cubic yard capacity. Equipped with shovel, dragline, backhoe, and other types of front ends.
Ditching machines.
Motor graders.
Portable air compressors from 105 c. f. m. to 500 c. f. m. inclusive.
Rock crushers, 35 tons per hour or under.
Straddle-lift trucks.
Tractors (track laying) and front-end loaders.
Tractor type scrapers.
Wheel tractors 100 h. p. or over.

In such advertisements, WAA shall indicate that preference will be given, as provided in subparagraph (6) of this paragraph, to holders of Housing Expediter certificates and CPA urgency certificate holders.

(6) *Order of preference after advertising for construction equipment and trucks.* This subparagraph applies to the equipment listed in subparagraph (5) of this paragraph, and to all trucks listed on the WAA veterans' set-aside list. Unless otherwise directed by CPA or the Housing Expediter, in disposing of any such items in a publicly advertised sale, each WAA Regional Office shall give preference to the following priority groups, in the order indicated, over all other persons:

(i) Holders of both an unexpired Housing Expediter certificate or CPA urgency certificate, and a WAA veterans' certificate (Form 63, 73, or 1127), for the same item. Within this priority group, certificates shall be honored in the order in which they are presented during the preference period established for them by the public advertisement.

(ii) Holders of an unexpired Housing Expediter certificate or CPA urgency certificate. Within this priority group, certificates shall be honored in the same order as in priority group (i).

[Former paragraph (o) (7) redesignated as (o) (8), and new paragraphs (o) (7) and (o) (8) added January 27, 1947]

(7) *Order of preference after advertising for other items.* This subparagraph applies to all other materials and equipment covered by this section. Unless otherwise directed by CPA or the Housing Expediter, in disposing of any such items in a publicly advertised sale, each WAA Regional Office shall give preference, over all other persons, to holders of an unexpired Housing Expediter certificate or CPA urgency certificate. Within this priority group, certificates shall be honored in the order in which they are presented during the preference period established for them by the public advertisement.

(The only exception to this rule is disposals under HEPR 1 or 2 of materials or equipment resulting from dismantlement (under WAA direction) of surplus government installations, if the sale is conducted at the location of the dismantling operation. Such a sale is excepted from this subparagraph, and is subject instead to a special rule explained in HEPR 1 and 2.)

(8) *Preference period.* WAA public advertisements establish a preference period of a certain number of days during which certificate holders must present their orders or bids. After a particular lot of materials or equipment covered by this section has been publicly advertised by WAA to certificate holders, and their preference period established by the advertisement has expired, the certificate holders shall have no further preference under this section in any later offerings of the same lot of materials or equipment.

(9) *Terms of sale.* WAA may make disposals under this section upon such terms and conditions as are not in conflict with this section or the Housing Expediter certificate upon which the disposal is made.

USE OF HOUSING EXPEDITER CERTIFICATES

(p) *How to use a Housing Expediter certificate.* The following are the rules governing the use of Housing Expediter certificates:

(1) *Sales by notification prior to public advertisement.* If WAA notifies a certificate holder that the materials or equipment described in his certificate are available for disposal, the holder shall, within the time specified in the notification, present his copy of the certificate and his written order as required by WAA, together with adequate identification, to the WAA office designated in the notification. (See paragraph (o) (3) (i) of this section on sales by notification.)

(2) *Publicly advertised sales.* The holder of a Housing Expediter certificate should watch for public advertisements of WAA sales, wherever located, of any materials and equipment covered by his certificate. The certificate holder should submit his order or bid in accordance with the terms of the advertised sale, noting on his order or bid that he holds a Housing Expediter certificate for the items covered by his order. Since preference among certificate holders in paragraphs (o) (6) (i) or (ii) and (o) (7) of this section will be on a first-come, first-served basis, promptness in placing orders of bids is important.

[Former paragraphs (p) (3) and (p) (4) redesignated as (p) (4) and (p) (5), and new paragraph (p) (3) added January 27, 1947]

(3) *Sales marked on certificate.* If some of the items covered by a Housing Expediter certificate are sold to the holder, his certificate will be marked to indicate this by striking out these items, and he may retain the certificate. If all items are sold to the holder, he must surrender his copy of the certificate to WAA.

(4) *Not transferable.* A Housing Expediter certificate may be used only by the person named in it, and any rights conferred by it on that person may not be transferred.

(5) *No copies to be made.* No person shall make, or have made, a photostatic copy or other facsimile of a Housing Expediter certificate.

HOUSING EXPEDITER DIRECTIVES

(q) *Issuance of Housing Expediter directives.* In addition to Housing Expediter certificates, Housing Expediter directives may be issued covering government-owned surplus needed in the VEHP. The following rules govern the issuance of such directives:

(1) Housing Expediter directives may be issued if (i) the location of the items involved is known, and (ii) because of special circumstances, disposal under HEPR 1 or 2 or issuance of a certificate would not adequately meet the needs of the VEHP

(2) Housing Expediter directives covering materials or equipment already publicly advertised or publicly offered for sale will, in general, be issued only if very extreme and unusual circumstances present such a serious threat to the VEHP that in the judgment of the Housing Expediter the action is mandatory.

(3) Application for a Housing Expediter directive should be made by letter to the Housing Expediter, Washington 25, D. C.

(r) *Effect of Housing Expediter and CPA directives.* Housing Expediter directives and CPA directives shall take precedence over Housing Expediter certificates. CPA directives shall take precedence over Housing Expediter directives.

RESTRICTIONS ON BUYERS

(s) *Use of materials or equipment obtained with Housing Expediter certificate or directive.* Any material or equipment obtained from WAA by the use of a Housing Expediter certificate or directive may be used only for the purpose for which the certificate or directive was issued.

(t) *Sale of materials or equipment obtained with Housing Expediter certificate or directive.* If it becomes impossible for a person who obtained materials or equipment under this section to use them for the purposes for which the Housing Expediter certificate or directive was issued, the unused materials or equipment may be disposed of only on authorization in writing by the Housing Expediter upon the basis of a letter from the person explaining the situation, and plans for disposal, if any. In general, disposal will be authorized only for purposes which would qualify for a Housing Expediter certificate under this section.

OTHER PROVISIONS

(u) *Appeals.* Any person who considers that compliance with any provision of this section would result in an exceptional and unreasonable hardship on him may appeal for relief. In addition, any person affected by action taken under this section which was based on an interpretation of the section which he considers to be incorrect may file an appeal. An appeal shall be in the form of a letter in triplicate, addressed to the Housing Expediter, Washington 25, D. C. The letter must state clearly the specific provision of the section appealed from and the grounds for claiming an exceptional and unreasonable hardship, or the specific action appealed from, as the case may be.

(v) *Exceptions.* In a very limited number of cases, an exception to the provisions of this section may be granted by the Housing Expediter so that a certificate may be issued for materials or equipment to be used in the VEHP, even though the applicant does not meet all the conditions of eligibility of the section. Any person who considers that the facts of his case are unusual enough to warrant the granting of such an exception should file his application with the Regional Housing Expediter of the Region where his place of business is located. The application will be forwarded by the Regional Expediter, with his recommendations, to the Housing Expediter, Washington 25, D. C.

(w) *Violations.* Any person who wilfully violates any provision of this section or who knowingly makes any statement to the Housing Expediter or the WAA, as to any matter within their respective jurisdictions, which is false in any respect, or who wilfully conceals a material fact in any certification required to be executed under this section, or who wilfully falsifies any records to be kept under this section, shall, upon conviction thereof, be subject to fine or imprisonment, or both, under the Veterans' Emergency Housing Act of 1946 and other applicable Federal Statutes. Any such person or any other person who violates any provisions of this section may be prohibited from making or obtaining any further deliveries of, or from using any materials or facilities suitable for housing construction, and may be deprived of priorities assistance for such materials or facilities.

(x) *Reporting and record-keeping requirements.* Each person or agency participating in any transaction to which this section is applicable shall complete and preserve, for at least two years after the date of the transaction, accurate and complete records of the details of each such transaction. All persons affected by this section shall file such information and reports as may be required by the Housing Expediter (or any person or agency authorized by him to make such requests), subject to the approval of the

Bureau of the Budget in accordance with the Federal Reports Act of 1942. The reporting and record-keeping requirements of this section have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(60 Stat. 207; 56 Stat. 177, as amended; E. O. 9638, 10 F. R. 12591, CPA Directive 44, 11 F. R. 8936)

Issued this 27th day of January 1947.

FRANK R. CREEDON,
Housing Expediter.

TABLE OF CRITICAL PRODUCTS COVERED BY PARAGRAPH (1) OF THIS SECTION

NOTE: Table amended January 27, 1947.

NOTE: As explained in paragraphs (c) and (1) of this section, this table is not a list of the materials and equipment for which Housing Expediter certificates may be issued under this section. It is a list to be used in determining whether an applicant is eligible for a Housing Expediter certificate under paragraph (1) of this section.

Aluminum sheet.
Aluminum extrusions for window sections.
Asbestos-cement siding shingles and flat sheets (products made from asbestos fibers and cement).
Asbestos-cement siding shingle and flat sheet specialized machinery.
Asphalt and tarred roofing products (smooth surfaced roll roofing, mineral surfaced roll roofing, strip and individual asphalt shingles, saturated felts, dry roofing felts, and saturated or coated sheathing papers).
Asphalt and tarred roofing products specialized machinery.
Bituminized fiber pipe.
Bituminized fiber pipe specialized machinery.
Boilers, low pressure, heating, steam and hot water.
Builders' hardware of the following types only:
(1) butts, hinges, hasps; (2) door locks, lock trim; (3) sash screen, and shelf hardware; (4) night latches, dead locks; (5) spring hinges; (6) sash balances, sash pulleys.
Building and sheathing papers.
Building board (board made from wood pulp, vegetable fibres, pressed paper stock, or multiple plies of fibred stock).
Cast iron soil pipe and fittings.
Cast iron pressure pipe.
Cast iron radiation.
Cement.
Cement mill specialized machinery.
Clay building products (common and face brick, clay structural tile, and clay sewer pipe).
Clay building products specialized machinery (such as dearing machines, extrusion heads, clay grinders and pulverizers, and brick presses).
Convector radiation (extended surface).
Copper water tubing, types K, L, M, sizes 3/8" to 3" inclusive.
Flooring, hardwood.
Furnaces (warm air, floor, wall).
Gypsum board and gypsum lath.
Gypsum board and gypsum lath specialized machinery.
Gypsum liner.
Lime, finishing.
Logs.
Lumber.
Metal door frames, residential types only.
Metal windows, sash and frames, residential types only.
Metal plaster base (metal lath).
Millwork, suitable for housing construction.
Nails.
Pig iron (foundry grade).
Plaster, hardwall.
Plumbing fixture fittings and trim, including brass tubular goods.
Plumbing fixtures (of the following types, in residential-design models only: bathtubs, lavatories, sinks, sink-and-tray combinations, shower stalls, receptors, stall-and-receptor combinations, water closet bowls, tanks. Trim is not included).
Plywood, softwood, suitable for housing construction.
Sawmill and other woodworking specialized machinery.
Screen cloth, insect.
Steel, galvanized sheet.
Wiring devices (electrical) of the following kinds only:

(1) Sockets, lampholders, and lamp receptacles—medium screw base types (lighting fixtures and portable lamps not included);
(2) Convenience receptacles (outlets) suitable for residential use;
(3) Toggle switches (types designed specifically for tools and appliances not included);
(4) Wall and face plates;
(5) Outlet, switch, and receptacle boxes suitable for residential use (covers, hangers, supports, and clamps included);
(6) Box connectors for residential-type metal or nonmetallic sheathed cable.

[F. R. Doc. 47-682; Filed, Jan. 27, 1947; 3:40 p. m.]

[Priorities Reg. 7, Jan. 27, 1947]

PART 803—PRIORITIES REGULATIONS UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

SALE AND REMOVAL OF SURPLUS GOVERNMENT INSTALLATIONS

PURPOSE

PURPOSE

§ 803.7 *Sale and removal of surplus government installations*—(a) *What this section provides.* This section, Housing Expediter Priorities Regulation 7, provides for the sale of certain surplus government installations for dismantlement or other removal by the purchaser, and channeling of the resulting structures, materials, and equipment into the Veterans' Emergency Housing Program. This section does not apply to the disposal of any surplus government installations with the land.

This section does not affect the priority rights established for various groups by the Surplus Property Act of 1944, as amended, and by applicable regulations of the War Assets Administration issued under that Act. It merely establishes a priority group (called "VEHP self-certifiers") after the Surplus Property Act priority groups and just ahead of the general public, so that the materials resulting from the dismantlement of the surplus installations sold under this section can be channeled into the VEHP.

These materials are suitable for the construction of housing accommodations, and are in short supply. This section is deemed necessary and appropriate in the public interest and to effectuate the purposes of the Veterans' Emergency Housing Act of 1946.

DEFINITIONS

(b) *Definitions.* For the purpose of this section:

(1) "Owning agency," "disposal agency," and "Government agency" have the meanings given the terms by section 3 of the Surplus Property Act of 1944, as amended.

(2) "State or local government" and "nonprofit institution" have the meanings given the terms by § 8305.2 of WAA Regulation 5.

(3) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency or instrumentality, or any organized group of persons whether incorporated or not.

(4) "Materials obtained under this section" means (i) materials (including whole structures) resulting from dismantlement or other removal of structures or utilities obtained on a bid filed under this section with an owning agency, a disposal agency, or the Reconstruction Finance Corporation, and (ii) materials otherwise obtained by self-certification under this section.

(5) "VEHP" means the Veterans' Emergency Housing Program.

(6) "WAA" means the War Assets Administration.

(7) "Surplus Property Act" means the Surplus Property Act of 1944, as amended.

(8) "This section" or "HEPR 7" means Housing Expediter Priorities Regulation 7.

SALES COVERED BY THIS SECTION

(c) *Property covered.* This section covers the following types of property if they are surplus and on land owned by or leased to the U. S. Government:

(1) Temporary structures (except sacred structures).

(2) Utilities, above ground and subsurface.

(d) *Disposals covered.* Property covered by this section will be in the possession of either:

(1) An "owning agency" such as the War Department or Navy Department, or

(2) A "disposal agency" such as War Assets Administration, Department of the Interior, or Department of Agriculture.

Whenever any of these agencies disposes of property covered by this section separate from the land, for dismantlement or other removal, the disposal must be made subject to this section.

(e) *Exceptions to this section.* The only disposals which fall within the rule stated in paragraph (d) of this section but are nevertheless excepted from this section are the following:

(1) *To FPHA, FWA, or VA.* Disposals to the Federal Public Housing Authority or Federal Works Agency under Title V of the Lanham Act, as amended, and disposals to the Veterans Administration.

(2) *Disposal agency exception.* Disposals by a disposal agency of a total of less than 10 structures at one site, if the agency elects not to follow this section.

(3) *Owning agency exception.* Disposals by an owning agency, if in exceptional cases the agency determines that it would be impracticable to follow this section.

DISPOSAL PROCEDURE

(f) *Transfer of property on leased land.* In accordance with the Surplus Property Act and applicable WAA regulations, if property covered by this section is on land leased to the U. S. Government, the initial procedure for the disposal of such property shall be as follows:

(1) If the lease is assignable under its terms, the owning or disposal agency may notify other Government agencies of the availability of the property with the land, and may assign the lease to one of the other Government agencies and transfer the structures and utilities to that agency for its use or for removal.

(2) If such assignment is not made or the lease is not assignable, the property may be transferred to the lessor (i) in settlement of a lease (as, for example, in satisfaction of restoration costs) or (ii) to satisfy other contractual obligations.

(g) *Public advertisement.* If neither of the steps outlined in paragraph (f) of this section is taken, or if property remains to be disposed of after one of the steps has been taken, the property shall be advertised as provided in this paragraph. In addition, all property covered by this section which is on land owned by the U. S. Government shall be publicly advertised in the same manner. All such property shall be publicly advertised, in accordance with the Surplus Property Act and WAA regulations and this section, for disposal to:

(1) The priority groups established by paragraph (k) of this section (for a disposal agency) or

(2) The priority groups established by paragraph (m) of this section (for an owning agency)

The advertising period shall be long enough to give all these priority groups, as well as the general public, adequate notice of the availability of the property and opportunity to file bids.

(h) *Size of offerings.* Property to be disposed of under this section by an owning or disposal agency may be made available in such minimum and maximum size lots as are determined to be most practicable and equitable by the agency disposing of the property. The maximum lot may include all the property covered by this section which is located at a single site.

(i) *Lowest acceptable bid.* In accordance with the Surplus Property Act and applicable WAA regulations, each owning or disposal agency disposing of property covered by this section may determine the lowest acceptable bid for each lot of such property offered. However, in every case the lowest acceptable bid must be at least as high as the estimated salvage value of the property, unless a lower figure is approved for a disposal agency by the War Assets Administrator.

(j) *Other terms of disposal.* Property may be disposed of under this section upon such terms and conditions as are not in conflict with this section.

BUYERS ELIGIBLE FOR PRIORITY

(k) *Sales by disposal agencies.* In disposing of any property covered by this section, disposal agencies shall give preference to bids from the following four Surplus Property Act priority groups and VEHP self-certifiers, in the order indicated, over all bids from the general public:

(1) Government agencies.

(2) Reconstruction Finance Corporation for sale to small business in accordance with paragraph (r) of this section.

(3) State and local governments.

(4) Nonprofit institutions.

(5) VEHP self-certifiers who file acceptable bids. A "VEHP self-certifier" is any person described in paragraph (l) of this section who gives with his bid or order a certificate in writing in substantially the following form:

The undersigned certifies to the U. S. Government, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that (1) he is eligible under Housing Expediter Priorities Regulation 7 to purchase the structures and utilities (or materials) covered by this bid (or order), and (2) he will use or sell the materials derived from the structures and utilities (or covered by this order) in accordance with that Regulation.

Signature

After the priority of the four Surplus Property Act priority groups above has been satisfied, awards shall be made to any VEHP self-certifier filing an acceptable bid, in preference to a member of the general public, even though the bid filed by the latter is a higher figure.

(l) *VEHP self-certifiers.* The following are eligible as "VEHP self-certifiers" under this section, if they sign the certification set out in paragraph (k) (5) of this section:

(1) *HH ratings.* A person who (i) has been authorized to use an HH priority in the construction of housing accommodations, or in the production of prefabricated housing, under the Veterans' Emergency Housing Program, and (ii) will use all the suitable and usable materials obtained under this section in such construction or production, or will sell them in accordance with paragraph (p) of this section. This includes builders, contractors, subcontractors and prefabricators.

(2) *Construction permits.* A person who will (i) use all the suitable and usable materials obtained under this section in the construction of housing accommodations as authorized by a construction permit under the Veterans' Emergency Housing Program, or (ii) sell them in accordance with paragraph (p) of this section. This includes builders, contractors, and subcontractors.

(3) *Utilities.* A person who will (i) use all the suitable and usable materials obtained under this section in the construction or maintenance of utilities (water, power, gas, sewerage) necessary to service housing accommodations the construction of which has been authorized under the Veterans' Emergency Housing Program, or in replacing equivalent materials which will be used for such purposes, or (ii) sell them in accordance with paragraph (p) of this section. This includes utilities (publicly or privately owned), builders, contractors, and subcontractors.

(4) *Dismantlers.* A person who will (i) dismantle or otherwise remove the structures or utilities covered by his bid, and (ii) resell, in accordance with paragraph (o) of this section, all the suitable and usable materials resulting from such dismantlement or removal.

(5) *Dealers.* A person who will resell, in accordance with paragraph (o) of this section, all the suitable and usable materials obtained by self-certification under this section.

(m) *Sales by owning agencies.* In disposing of any property covered by this section, owning agencies shall give preference, over bids from the general public, to bids from VEHP self-certifiers, as defined in paragraph (k) (5) of this section. Awards shall be made to any VEHP self-certifier filing an acceptable bid, in preference to a member of the general public, even though the bid filed by the latter is a higher figure.

RESTRICTIONS ON BUYERS

(n) *Use by VEHP self-certifiers.* A VEHP self-certifier who obtains materials under this section must (1) use the suitable and usable materials only for the purposes described in paragraph (l) of this section, or (2) offer and dispose of them in accordance with paragraphs (o) or (p) of this section.

(o) *Sales by dismantlers and dealers.* A VEHP self-certifier who obtains materials under paragraph (l) (4) or (5) of this section must (1) without delay publicly offer for sale all the suitable and usable materials obtained under this section, and (2) dispose of them to VEHP self-certifiers only. (See paragraph (k) (5) of this section.)

(p) *Sales by other VEHP self-certifiers.* If a VEHP self-certifier does not use all the suitable and usable materials he obtained under paragraph (l) (1), (2), or (3) of this section for the purpose to which he certified, he must (1) without delay publicly offer for sale all such unused materials, and (2) dispose of them to VEHP self-certifiers only.

(q) *Prohibited disposals.* A reseller as described in paragraph (o) or (p) of this section must not make disposals even to VEHP self-certifiers if he knows, or has reason to believe, that the materials will be acquired, used, or disposed of in violation of this section.

(r) *Sales by RFC.* All property obtained under paragraph (k) (2) of this section shall be disposed of by Reconstruction Finance Corporation to VEHP self-certifiers only. (See paragraph (k) (5) of this section.)

OTHER PROVISIONS

(s) *Appeals.* Any person who considers that compliance with any provision of this section would result in an exceptional and unreasonable hardship on him may appeal for relief. In addition, any person affected by action taken under this section which was based on an interpretation of the section which he considers to be incorrect may file an appeal. An appeal shall be in the form of a letter in triplicate, addressed to the Housing Expediter, Washington 25, D. C. The letter must state clearly the specific provision in the section appealed from and the grounds for claiming an exceptional and unreasonable hardship, or the specific action appealed from, as the case may be.

(t) *Violations.* Any person who wilfully violates any provision of this section and any person who knowingly makes any statement to any department or agency of the United States, as to any matter within its jurisdiction, which is false in any respect, or who wilfully conceals a material fact in any certificate required to be filed under this section, or who wilfully falsifies any records required to be kept under this section, shall, upon conviction thereof, be subject to fine or imprisonment or both, under the Veterans' Emergency Housing Act of 1946 and other applicable federal statutes. Any person who violates any provision of this section may be prohibited from making or obtaining any further deliveries of, or from using, any materials or facilities suitable for housing construction, and may be deprived of priorities assistance for such materials or facilities.

(u) *Reporting and record-keeping requirements.* Each person or agency participating in any transaction to which this section is applicable shall complete and preserve, for at least two years after each such transaction, records sufficient to show that the requirements of this section have been complied with in using or disposing of materials obtained under this section. All persons affected by this section shall file such information and reports as may be required by the Housing Expediter (or person or agency authorized by him to make such requests), subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942. The reporting and record-keeping requirements of this section have been approved by the Bureau of the Budget in accordance with that Act.

(v) *Regulations by agencies to be reported to the Housing Expediter* Each owning or disposal agency subject to this section shall file with the Housing Expediter copies of all regulations, orders, and instructions which it may issue in furtherance of this section.

(w) *Effective date.* This section shall become effective February 17, 1947.

(60 Stat. 207; 56 Stat. 177, as amended; E. O. 9638, 10 F. R. 12591, CPA Directive 44, 11 F. R. 8936)

Issued this 27th day of January 1947.

FRANK R. CREEDON,
Housing Expediter.

[F. R. Doc. 47-885; Filed, Jan. 27, 1947; 3:41 p. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 51610]

PART 3—DOCUMENTATION OF VESSELS

1. Section 3.17 of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 3.17) as amended by T. D. 51231, is amended to read as follows:

§ 3.17 *Home port; definition; change of.* (a) A vessel's home port* is that port where documents may be issued to vessels which has been fixed and determined by the owner with the approval of the Commissioner of Customs or of an officer or employee of the Bureau designated for the purpose by the Commissioner of Customs pursuant to section 103 of Reorganization Plan No. 3 of 1946 (11 F. R. 7876). It is the port at which a vessel's permanent documents are issued, but it shall appear in all documents whether they are permanent or temporary.

(b) The owner of a vessel shall submit to the collector the designation of a home port for the vessel on customs Form 1319, signed as provided for in § 3.13 (a) When the designation is filed with the collector at the port designated as the home port of the vessel, the designation shall be in duplicate. When the designation is filed with the collector at any port other than the port designated as the home port of the vessel, the designation shall be in triplicate. If the home port so designated is different from the last previous home port of the vessel, the owner shall also request the collector at the previous home port to forward to the collector at the designated home port an abstract of title on customs Form 1331.

(c) If the home port designated is the port at or nearest the place in the same customs collection district where the vessel business of the owner is conducted, if the vessel has previously been documented as a vessel of the United States, and if the designation is presented to the collector at the port where a temporary document is to be issued to the vessel, or at the home port designated, together with recordable bills of sale establishing the complete chain of title to the vessel from the last owner of record, the collector, after examining the bills of sale of the vessel and the abstract of title on customs Form 1331, shall forward to the Bureau the duplicate copy of the designation, when approved by him or an employee in his office properly designated to grant such approvals. If the designation is presented to the collector at a port other than the home port, he shall forward to the collector at the home port the triplicate copy of the designation.

(d) In all other cases, the collector, after examining the bills of sale of the vessel and the abstract of title on customs Form 1331, shall transmit the original of the application, together with all required copies, to the Bureau. When approved, the original will be returned to the collector transmitting the designation. If the designation is submitted to the Bureau by the collector at a port other than the home port, the Bureau will also forward a copy of the designation to the collector at the home port.

(e) When it is impracticable to establish the complete chain of title by recordable bills of sale, the collector shall inform the Bureau of the facts and circumstances, and shall state whether or not he is of the opinion that the applicant has legal title to the vessel.

(f) If an owner desires that the home port be elsewhere than the port at or nearest the place in the same customs collection district where the vessel business of the owner is conducted, he shall forward to the Bureau through a collector of customs a designation of home port on customs Form 1319 accompanied by a detailed statement setting forth the reasons.

(g) No officer or employee of the Bureau designated to grant approvals of designations of home ports shall approve, nor shall any collector forward to the Bureau for approval, any such designation unless it appears that the vessel will be documented as a vessel of the United States substantially simultaneously with the receipt by him of the approval of the designation. When a designation has been approved and the vessel is not so documented, the approval granted shall be cancelled. The collector in subsequently transmitting a new designation by the same owner shall indicate in his remarks the date of the previous approval and that it was cancelled because of failure to document the vessel. (R. S. 161, 4141, secs. 2, 3, 23 Stat. 118, 119, sec. 1, 43 Stat. 947; 5 U. S. C. 22,

*For the purposes of the navigation laws of the United States * * *, every vessel of the United States shall have a "home port" in the United States, including Alaska, Hawaii, and Puerto Rico, which port the owner of such vessel, subject to the approval of the Director of the Bureau of Marine Inspection and Navigation of the Department of Commerce (Commissioner of Customs), shall specifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment, and license, or license of such vessel, which documents, respectively, are referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force on February 16, 1925, shall be deemed to have been fixed and determined in accordance with the provisions hereof. * * * (46 U. S. C. 18, sec. 102, Reorganization Plan No. 3 of 1946; 11 F. R. 7875)

46 U. S. C. 2, 3, 17, 18; sec. 102, Reorg. Plan No. 3 of 1946; 11 F R. 7875)

2. Section 3.24 (c) of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 3.24 (c)), is amended to read as follows:

§ 3.24 *Change of master* * * *

(c) Every application for the endorsement of the names of one or two alternate masters on the license of a vessel in addition to the name of the master already endorsed on the license shall be filed with the collector of customs at the home port of the vessel and shall contain a statement of the condition of employment of the vessel. The endorsement of the names of one or two alternate masters upon the license shall be authorized by the collector or an employee in his office properly designated to grant such authorization whenever that officer or employee, after examining the application, deems the condition of employment of the vessel warrants such action. Under no circumstances shall the endorsement of the names of more than two alternate masters upon the license be authorized. The same oaths shall be required of such alternate masters as are required in the case of other masters.

R. S. 161, 4171, 4335, sec. 2, 23 Stat. 118, 53 Stat. 794, 5 U. S. C. 22, 46 U. S. C. 2, 40, 276, sec. 102, Reorg. Plan No. 3 of 1946, 11 F R. 7875)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

The first sentence of § 4.33 (c) of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 4.33 (c)), is amended to read as follows:

§ 4.33 *Diversion of cargo.* * * *

(c) The destination in the United States of foreign cargo appearing on the inward foreign manifest may be changed at any domestic port to permit the landing of such cargo at any other domestic port if the vessel's owner or agent files with the collector a written application therefor accompanied by a bond, in an appropriate amount, conditioned that the collector shall be held blameless for any consequence of the act. * * *

(Secs. 449, 624, 46 Stat. 715, 759; 19 U. S. C. 1449, 1624)

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Section 23.25 (a) of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 23.25 (a)) as amended by T. D. 51480 is hereby amended to read as follows:

§ 23.25 *Remission or mitigation by collectors.* (a) Fines or other pecuniary penalties for violation of the customs laws, or of the navigation laws administered by the Bureau, aggregating less than $100 in respect of any one offense may be remitted or mitigated by the collector of customs concerned on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate.

(R. S. 251, sec. 3, 44 Stat. 1382, secs. 624, 643, 43 Stat. 759, 761, 5 U. S. C. 281b, 19 U. S. C. 66, 1624, 1643; secs. 102, 103, Reorg. Plan No. 3 of 1946; 11 F. R. 7875, 7876)

[SEAL] W. R. JOHNSON,
Commissioner of Customs.

Approved: January 22, 1947.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-843; Filed, Jan. 28, 1947; 8:51 a. m.]

[T. D. 51609]

PART 100—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE BUREAU OF CUSTOMS

DELEGATION OF AUTHORITY

Section 100.3 (11 F R. 177A-20) is amended by the addition of new paragraphs (d) (e) (f) and (g) as follows:

§ 100.3 *Delegation of authority.* * * *

(d) The Assistant Deputy Commissioner of Customs in charge of Marine Administration is hereby designated, pursuant to section 103 of Reorganization Plan No. 3 of 1946 (11 F R. 7876) as the officer of the Bureau of Customs who may, except as otherwise provided for in this section, perform the functions transferred to the Commissioner of Customs by section 102 of said Reorganization Plan, subject to the following exceptions and conditions:

(1) Whenever in the opinion of the Assistant Deputy Commissioner of Customs in charge of Marine Administration any question pending for decision is of exceptional importance, he shall submit the question to the Commissioner of Customs, and the decision shall be made by the Commissioner of Customs.

(2) No regulations shall be prescribed or requirements of regulations waived by the Assistant Deputy Commissioner of Customs in charge of Marine Administration.

(3) No fine, penalty, or forfeiture shall be remitted or mitigated by the Assistant Deputy Commissioner of Customs in charge of Marine Administration.

(e) The Deputy Commissioner of Customs in charge of Tariff and Marine Administration is hereby designated, pursuant to section 103 of Reorganization Plan No. 3 of 1946 (11 F R. 7876) as the officer of the Bureau of Customs who may perform the function, transferred to the Commissioner of Customs by section 102 of said Reorganization Plan, of remitting or mitigating fines, penalties, and forfeitures, not exceeding $1,500 in the aggregate in any one case.

(f) The collector of customs concerned is hereby designated, pursuant to section 103 of Reorganization Plan No. 3 of 1946 (11 F. R. 7876) as the officer of the Bureau of Customs who may perform the function, transferred to the Commissioner of Customs by section 102 of said Reorganization Plan, of remitting or mitigating fines or other pecuniary penalties, aggregating less than $100 in respect of any one offense, on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate.

(g) The collector, assistant collector, and deputy collector in charge of marine work for the port where a temporary document is to be issued to a vessel or for the home port of a vessel fixed and determined by its owner are hereby designated, pursuant to section 103 of Reorganization Plan No. 3 of 1946 (11 F R. 7876) as the officers of the Bureau of Customs who may perform the function, transferred to the Commissioner of Customs by section 102 of said Reorganization Plan, of approving owners' designations of home ports for vessels pursuant to section 1 of the Act of February 16, 1925 (46 U. S. C. 18) subject to the following exceptions and conditions:

(1) Whenever the home port of a vessel designated by its owner is a port other than the one at or nearest the place in the same customs collection district where the vessel business of the owner is conducted, the collector, assistant collector, or deputy collector shall submit the designation to the Commissioner of Customs and the decision shall be made by the Assistant Deputy Commissioner of Customs in charge of Marine Administration under the authority contained in paragraph (d) of this section.

(2) Whenever a vessel for which a home port is designated by its owner has not been documented previously as a vessel of the United States the collector, assistant collector, or deputy collector shall submit the designation to the Commissioner of Customs and the decision shall be made by the Assistant Deputy Commissioner of Customs in charge of Marine Administration under the authority contained in paragraph (d) of this section.

(3) Whenever the complete chain of title, from the last owner of record, to a vessel for which a home port is designated by the owner is not established by recordable bills of sale the collector, assistant collector, or deputy collector shall submit the designation to the Commissioner of Customs and the decision shall be made by the Assistant Deputy Commissioner of Customs in charge of Marine Administration under the authority contained in paragraph (d) of this section.

(h) The collector of customs, assistant collector, and deputy collector in charge of marine work for the home port of a vessel are hereby designated, pursuant to section 103 of Reorganization Plan No. 3 of 1946 (11 F R. 7876) as the officers of the Bureau of Customs who may perform the function, transferred to the Commissioner of Customs by section 102 of said Reorganization Plan, of authorizing the endorsement of the names of alternate masters on documents of vessels pursuant to section 4335 of the Revised Statutes of 1873 as amended by the act of May 31, 1939 (46 U. S. C. 276)

(Reorg. Plan No. 3 of 1946, 11 F. R. 7875)

This amendment shall take effect on the date of its publication in the FEDERAL REGISTER.

[SEAL] W R. JOHNSON,
Commissioner of Customs.

Approved January 22, 1947.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-844; Filed, Jan. 28, 1947; 8:51 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[Local Board Memorandum 112–a, Issued: 3–16–45; As Amended: 1–28–47]

PART 671—LOCAL BOARD MEMORANDA

STATUS OF NONDECLARANT ALIEN STUDENTS AND TRAINEES

Pursuant to the provisions of the Administrative Procedures Act, the following directive issued under authority of the Selective Training and Service Act of 1940, as amended, is hereby made a matter of record:

§ 671.112–a *Aliens; status of nondeclarant alien students and trainees*—(a) *General*—(1) *General policy.* The Department of State has represented as a matter of foreign policy that it is in the national interest to foster closer and more effective relations with foreign countries through study, practical training and research in the United States by aliens in agriculture, industry, commerce, public health, education, or in related fields, and has requested that nondeclarant aliens entering the United States for such specific temporary purposes be not required to register or be called for training and service. In cooperation with such policy the Director of Selective Service desires to comply with the request of the Department of State and will undertake to do so under requirements mutually agreeable to the Secretary of State, the Commissioner of Immigration and Naturalization and the Director of Selective Service, as set forth in this section. It is understood that aliens engaged in such study, training or research shall be limited to remuneration, where receivable, that shall not exceed a fair subsistence allowance except where the nondeclarant alien is a regular permanent employee of a government or of a private business, in which cases he shall be permitted to receive the full amount customarily paid him by his employer for services rendered. Nothing in this section contained shall be construed as abridging the authority of the Director of Selective Service to grant, cancel, amend, or extend the exemption from training and service of any alien coming within the purview of this section. Exemption under this section, among other requirements, shall at all times be conditional upon the seriousness of purpose of such alien, his close application to and satisfactory progress in such practical training, study and/or research undertaken.

(2) *Information concerning programs.* An interested local board should apply to the Director, through the State Director, when it desires information concerning any approved training program or any approved combined study and training program included under this section.

(3) *Certain nondeclarant aliens may be considered nonresidents.* It is the purpose of this section to prescribe the circumstances and conditions under which certain nondeclarant aliens who enter the United States for such specific temporary purposes as students or trainees may be considered as male persons "not residing in the United States" within the meaning of the selective service law, and to prescribe the conditions under which they may be issued an Alien's Certificate of Nonresidence (DSS Form 303).

(4) *DSS Form 303 limited as to time.* An Alien's Certificate of Non-residence (DSS Form 303) should not be issued for a period of more than six months unless the Director specifically authorizes a longer period, except in the case of bona fide foreign students and other aliens approved under training or combined study and training programs outlined in this section for whom the period shall be one year, but DSS Form 303 may be renewed for successive periods in accordance with § 611.26 of this chapter.

(5) *Certain cases to be reexamined.* The local board should reexamine the case of any alien student or trainee who has already been in the United States for a period longer than is herein contemplated, or who appears to have failed otherwise to meet the requirements of this section.

(6) *Transfer of student or trainee.* A nondeclarant alien student may transfer from one institution of learning to another, or if a trainee, from one place of training to another: *Provided,* That such transfer is in the normal course of the planned education or of the training and does not interfere therewith.

(7) *Completion of period of study or training.* A nondeclarant alien student or trainee who completes a period of training, study and/or research in accordance with the provisions of this section should be allowed a reasonable time, not to exceed 45 days, to leave the country, during which time his DSS Form 303 should not be recalled.

(8) *Loss of student or trainee status.* If a nondeclarant alien holding a DSS Form 303 fails to maintain his status as a bona fide student, or as a trainee, he shall no longer be entitled to such certificate, and it shall be recalled by the local board. He shall thereupon be considered to be a male person "residing in the United States," be obligated to register immediately, and be liable for training and service under the selective service law, except that any such alien whose failure to maintain his status is due solely to either an unsatisfactory scholastic record during his regular attendance at an institution of learning, or to an inability to meet the requirements of the training contemplated herein, should be allowed a reasonable time, not to exceed 45 days, to leave the country, during which period his DSS Form 303 should not be recalled.

(9) *Special notation on DSS Form 304.* Under section III, item 20, DSS Form 304 a notation shall be made by the local board in the space available of the section (section 4 (e), section 3 (2), section 3 (1), or other applicable section) of the Immigration Act of 1924 (8 U. S. C., 203, 204), under which the alien was admitted to the United States, and should a subsequent change in the status of the alien have been accomplished by the Immigration and Naturalization Service a similar notation shall be made of the section of such law applicable at the time of filing the DSS Form 304.

(b) *Students*—(1) *Requirements for a nondeclarant alien student.* A nondeclarant alien student to be considered as a bon fide full-time student and as a male person "not residing in the United States" must comply with the provisions of §§ 611.21 and 611.26 of this chapter, and, in addition, must meet the following requirements:

(i) He must enter the United States for the purpose of study and/or research, follow the regular full-time course of instruction and/or research and maintain satisfactory progress in such studies and/or research in, and as certified by, an institution of learning approved for "Section 4 (e)" visa purposes by the Attorney General of the United States, except that part-time study and/or research may be permitted if, in the judgment of such institution upon recommendation to the Selective Service Local Board it is necessary by reason of poor health, not chronic, English language difficulties, or engaging in activities as indicated in subdivision (iii) of this subparagraph.

(ii) He must not be gainfully employed, except (a) that a student who meets all other requirements may undertake part-time employment if such employment in no way interferes with the maintenance of a regular full-time course of instruction and/or research or until such time as such part-time employment might be disapproved by the Commissioner of Immigration and Naturalization, (b) that he may undertake on-the-job training for which he receives subsistence allowance if such training is in connection with part-time study and/or research as specified in subdivision (i) of this subparagraph or if such training is in the nature of practical training immediately following the completion of study and/or research as specified in subdivision (iii) of this subparagraph: *Provided,* That nothing herein shall be construed as preventing or limiting the remuneration paid to an alien who is a regular permanent employee of a government or of a private business as provided in paragraph (a) (1) of this section: *And provided further,* That permission for such on-the-job training or practical training has been previously obtained from the Commissioner of Immigration and Naturalization.

(iii) He may also be considered as maintaining the status of a student if immediately upon the completion of his studies and/or research he enters upon a course of practical training in the field for which his studies and/or research have prepared him and for which he receives no remuneration or subsistence allowance from the organization providing the training, except that subsistence allowance may be received for such training if the organization providing the training so requires and permission to receive it is granted by the institution supervising the trainee: *Provided,* The educational institution he is attending or from which he was graduated, prescribes such course of training, certifies that it is as advantageous to the student as graduate study, and supervises the course of training during its

continuance; *And, provided further* That permission to undertake such course of training is previously obtained from the Immigration and Naturalization Service. Such course of practical training shall be limited to one calendar year, or to such shorter period as the student may be permitted to remain in the United States by the Immigration and Naturalization Service, of the Department of Justice.

(2) *Visas are evidence of purpose of entry.* (i) In determining whether or not the alien entered the United States for the purpose of study, the local board should consider the type of visa under which he entered.

(ii) If he entered prior to June 1, 1944, the type of visa is not conclusive but the local board should determine, from the visa and all other available facts and circumstances, whether or not he entered for the purpose of study.

(iii) If he entered after June 1, 1944, the type of visa is conclusive and the local board should not determine that he came for the purpose of study unless he attends an institution of learning approved for "Section 4 (e)" visa purposes by the Attorney General, or pursues a course of instruction prescribed, and/or conducted, by the United States Government, and unless his visa indicates that he entered under the provisions of one of the following sections of the Immigration Act of 1924 (8, U. S. C., 203 and 204)

(*a*) Section 4 (e) (student)

(*b*) Section 3 (2) (visitor)

(*c*) Section 3 (1) (government official).

(3) *Periods allowed for study and/or research.* The maximum periods for study and/or research during which a student may remain in the United States are set out below.

(i) An undergraduate student shall be permitted to remain for the time normally required to obtain a degree but such time may be extended upon certification by the institution in which he is enrolled that additional time is necessary due to language or health handicaps: *Provided,* That the total of such additional time shall not exceed the equivalent of one school year.

(ii) A student who enrolls for a graduate degree immediately upon the completion of his undergraduate work in the United States or who comes to this country for the purpose of graduate study leading to a degree or degrees and/or for research shall be permitted to remain for the time normally required to obtain that degree or degrees and/or complete the research, and for such additional time as is deemed necessary by the institution attended because of language difficulties or temporary illnesses: *Provided,* That the total of such additional time shall not exceed the equivalent of one school year. Some graduate degrees cannot be obtained without first obtaining a qualifying graduate degree. In such cases obtaining the qualifying graduate degree shall not preclude the student remaining for the time necessary to obtain the ultimate graduate degree: *Provided,* That the total time for obtaining such ultimate graduate degree and/or for completing the related research shall not exceed the time normally required, plus such additional time as is deemed necessary by the institution attended because of language difficulties or because of temporary illnesses: *Provided further* That the total of such additional time shall not exceed the equivalent of one school year, unless for any reason the educational institution the student is attending determines in any individual case involving such ultimate degree that a longer period is advisable and so certifies to the Director of Selective Service.

(iii) A student who has completed his undergraduate work in another country and comes to the United States for the purpose of graduate study or for supervised research not leading to a degree shall be permitted to remain in the United States for not more than two years plus such an additional period or periods of study or of supervised research in the field covered by his studies as may be determined advisable by the educational institution the student is attending and so certified by such institution to the Director of Selective Service.

(c) *Trainees*—(1) *Requirements for a nondeclarant alien trainee.* A nondeclarant alien trainee to be considered as a male person "not residing in the United States" must be approved by the Department of State as a trainee under one of its approved training programs, must at all times comply with the provisions of such training program and with the provisions of §§ 611.21 and 611.26 of this chapter, and in addition, must meet one of the following requirements:

(i) Have entered the United States for the purpose of training.

(ii) Have satisfactory completed undergraduate or graduate study and any such practical training immediately following such study that may have been deemed as advantageous to the student as further study by the educational institution he attended.

(2) *Visas applicable.* To qualify under this paragraph a trainee must have been admitted to the United States under the provisions of section 3 (1) (government official) section 3 (2) (visitor) or section 4 (e) (student) of the Immigration Act of 1924 (8 U. S. C., 203 and 204) A trainee who was admitted under the provisions of section 4 (e) (student) must possess the additional qualification of having successfully completed the undergraduate or graduate studies and/or the practical training described in subparagraph (1) (ii) of this paragraph for the accomplishment of which he was admitted to the United States under the provisions of said section 4 (e) (student)

(3) *Period allowed for training.* Training of an alien under this paragraph shall be limited to a maximum period of two years: *Provided,* That under circumstances considered exceptional by the Director of Selective Service, in individual cases, a reasonable additional period may be granted.

(4) *Issuance of Certificate of Nonresidence, DSS Form 303.* DSS Form 303 shall be issued by local boards to trainees under this paragraph only after approval of the specific program and of the individual trainee thereunder by the Director of Selective Service and after, as otherwise provided in this section, the trainee has been found qualified for exemption.

(d) *Combined study and training*—(1) *Requirements for a combined student and trainee.* A nondeclarant alien who enters the United States for the combined purpose of study and training must, in order to be considered as a male person "not residing in the United States," be approved by the Department of State as a trainee under one of its approved combined study and training programs, must at all times comply with the provisions of such combined study and training program and with the provisions of §§ 611.21 and 611.26, of this chapter, and in addition, must meet the following requirements:

(i) Have entered in pursuance of, or be included in, and at all times comply with, the provisions of a program of combined study and training approved by the State Department.

(ii) While engaged in study, meet the requirements of a student under paragraph (b) of this section.

(iii) While engaged in training, meet the requirements of a trainee under paragraph (c) of this section.

(2) *Visas applicable.* To qualify under this paragraph a trainee must have been admitted to the United States under the provisions of section 3 (1) (government official) section 3 (2) (visitor) or section 4 (e) (student) of the Immigration Act of 1924 (8 U. S. C., 203 and 204)

(3) *Issuance of Certificate of Nonresidence, DSS Form 303.* DSS Form 303 shall be issued by local boards to trainees under this paragraph only after approval of the specific program and of the individual trainee thereunder by the Director of Selective Service and after, as otherwise provided in this section, the trainee has been found qualified for exemption.

(54 Stat. 885, as amended; 50 U. S. C. and Sup. 310)

LEWIS B. HERSHEY,
Director

[F. R. Doc. 47-841; Filed, Jan. 28, 1947; 8:50 a. m.]

Chapter IX—Office of Temporary Controls, Civilian Production Administration

AUTHORITY: Regulations in this chapter unless otherwise noted at the end of documents affected, issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236, 56 Stat. 177, 58 Stat. 827, and Public Laws 270 and 475, 79th Congress; Public Law 388, 79th Congress; E. O. 9024, 7 F R. 329; E. O. 9040, 7 F. R. 527; E. O. 9125, 7 F. R. 2719; E. O. 9599, 10 F. R. 10155; E. O. 9638, 10 F R. 12591; C. P. A. Reg. 1, Nov. 5, 1945, 10 F. R. 13714; Housing Expediter's Priorities Order 1, Aug. 27, 1946, 11 F. R. 9507; E. O. 9809, Dec. 12, 1946, 11 F. R. 14281; OTC Reg. 1, 11 F. R. 14311.

PART 3283—LUMBER AND LUMBER PRODUCTS

[Limitation Order L-358, as Amended Jan. 28, 1947]

SOFTWOOD PLYWOOD

There is a shortage in the supply of softwood plywood for defense for private

account and for export. Softwood plywood is suitable for the construction and completion of housing accommodations in rural and urban areas and for the construction and repair of essential farm buildings, and priorities for deliveries of softwood plywood are established in Schedule A to Priorities Regulation 33. This order is necessary and appropriate in the public interest, to promote the national defense and to effectuate the purposes of the Veterans' Emergency Housing Act of 1946.

§ 3283.149 *Limitation Order L–358*—(a) *What this order does.* This order provides that manufacturers of softwood plywood must produce and reserve a percentage of their production in construction and door panel grades. A part of the reserve must be delivered to distributors on unrated and uncertified orders, and the balance on rated orders and on certified orders from distributors and manufacturers of certain housing products and certain other essential items.

All measurements and computations of softwood plywood shall be in square footage measured on a 3/8" rough basis.

(b) *Definitions for the purpose of this order* (1) "Softwood plywood" means laminated veneers of any species of softwood united with a bonding agent to produce board.

(2) "Construction plywood" means plywood of one or more softwood panels, 12 feet and shorter of the following grades: Interior (Moisture resistant) type as follows: 1/4" sanded or 5/16" unsanded wallboard; 3/8" sanded or 7/16" unsanded wallboard; 1/4" sanded or 5/16" unsanded sound one side plypanel; 3/8" sanded or 7/16" unsanded sound one side plypanel; 5/16" sheathing; 3/8" sheathing; 1/2" sheathing and 5/8" sheathing; and Exterior type 1/4" sanded or 5/16" unsanded sound one side plypanel 3/8" sanded or 7/16" unsanded sound one side plypanel.

(3) "Door plywood" means softwood plywood Interior (Moisture resistant) and Exterior type of 1/4" sound two sides door plypanel.

(4) "Certified order" means any order for the delivery of softwood plywood bearing the certificate prescribed in paragraph (i)

Softwood Plywood Manufacturers

(c) *Softwood plywood manufacturers' reserve production.* The following conditions govern the amount of construction plywood and door plywood softwood plywood manufacturers shall produce and reserve for distributors and certified or rated orders:

(1) Each softwood plywood manufacturer shall manufacture (i) at least 46% of his monthly production of softwood plywood in the form of construction plywood, and (ii) at least 4% of his monthly production of softwood plywood in the form of door plywood.

(2) Every softwood plywood manufacturer must hold 50% of his total production of construction plywood in square footage in each month for delivery only on AAA, MM or certified orders. When a plywood manufacturer has accepted such orders for construction plywood for this amount, he must not accept additional rated or certified orders for construction plywood produced in that month. In addition he may deliver only on AAA or on uncertified and unrated orders from distributors that portion of his reserve which is not required to fill AAA, MM or certified orders received in the month it was produced.

(3) A softwood plywood manufacturer must reserve 50% of his total production of construction plywood in each month for delivery only on uncertified and unrated orders from distributors.

(4) A softwood plywood manufacturer must hold his total production of door plywood in each month for delivery on AAA or on certified orders from door manufacturers or distributors. In addition he may deliver only on AAA or on uncertified and unrated orders from distributors any portion of his reserve of door plywood which is not required to fill certified orders received in the month in which it was produced.

(5) Any softwood plywood produced or delivered on MM rated or on certified orders from persons authorized under paragraph (h) below may be credited by the manufacturer to his reserve production of construction plywood on a 3/8" basis even though the softwood plywood delivered was not of construction plywood grades.

(6) AAA and MM ratings are the only ratings which are valid against a softwood plywood manufacturer for construction plywood and AAA ratings are the only ratings valid against him for door plywood. Orders for such plywood bearing other ratings must be treated by him as unrated.

Distributors

(d) The following provision tells how distributors who buy and stock softwood plywood for resale as plywood at wholesale or retail may place orders for construction or door plywood, and how they may sell it:

(1) A distributor may place uncertified and unrated orders for construction or door plywood with a plywood manufacturer. Every distributor must reserve 75% of each shipment of construction or door plywood received after February 1, 1947 for delivery only on rated and certified orders for 15 days after receipt. When a distributor has accepted such orders to the extent of his reserve for any shipment he need not accept any more certified or rated orders (except AAA) to be filled from the construction or door plywood received in that shipment. In addition, he may deliver on uncertified and unrated (except AAA) orders any construction or door plywood from his reserve which at the end of the 15 days after receipt is not required to fill rated or certified orders received before that time. Plywood received by a distributor before February 1, 1947 which he had to reserve under this order as amended November 19, 1946 need not be reserved for rated and certified orders after February 15, 1947.

(2) A distributor who has received a certified order for construction or door plywood may place a certified order with a plywood manufacturer to get the construction or door plywood which will be delivered to his customer subject to applicable inventory regulations. A distributor may not place a certified order with a producer for replacement of inventory.

Prefabricators

(e) *Prefabricators.* A prefabricator may place certified orders calling for delivery in the first calendar quarter of 1947 with a plywood manufacturer or a distributor for construction plywood in the amount for which he has received priorities assistance on Form NHA–14–53. A prefabricator must order, accept delivery of and use construction plywood in accordance with the provisions of Direction 8 to Priorities Regulation 33 and Housing Expeditor Priorities Regulation 6.

Builders

(f) *Housing contractors.* The following provisions tell how a builder (applicant) or a general contractor directly authorized by such builder to use the HH rating for the whole job, but not a subcontractor authorized to use the HH rating for part of the job, may place certified orders or HH rated orders with a plywood manufacturer or distributor for construction plywood:

(1) A builder or his general contractor may place with a distributor but not with a softwood plywood manufacturer HH rated orders for construction plywood under the provisions of Schedule A to PR–33. A builder or his general contractor purchasing in not less than carload lots, may place certified orders for mill shipment delivery each month with a softwood plywood manufacturer or a distributor in an amount not in excess of the total amount of construction plywood needed for the housing accommodations for which he has received priorities assistance.

NOTE: Former paragraphs (g) and (h) deleted, new paragraph (g) added, and former paragraphs (i) and (j) redesignated (h) and (i), Jan. 28, 1947.

Cabinet and Door Manufacturers

(g) *Cabinet and door manufacturers.* Authorizations issued to cabinet and door manufacturers for the first quarter of 1947 remain valid, and cabinet and door manufacturers may place certified orders with a plywood manufacturer or

a distributor for delivery in the first calendar quarter of 1947 for the quantities for which authorizations have been granted. Construction or door plywood received on certified orders must be used in the manufacture of built-in kitchen cabinets suitable for housing or standard doors which must be sold on rated orders in accordance with Priorities Regulation 1.

Other Users of Softwood Plywood

(h) *Other users of softwood plywood.* The following provisions tell how persons requiring softwood plywood for use in the manufacture of farm equipment, tobacco hogsheads, insulated trucks and trailers, busses and railroad box-cars may apply for authority to place certified orders for softwood plywood. Any person requiring softwood plywood for such uses may apply for authority to place certified orders for softwood plywood. CPA may grant authority to place certified orders for softwood plywood within the amounts available where it is established that no substitute material is obtainable. Application may be made on Form CPA–4494 in accordance with its instructions.

Certification

(i) *Certification.* (1) An order for construction or door plywood may be certified only by endorsing or attaching the following form of certificate on the purchase order, sales ticket or other order calling for the delivery of softwood plywood:

> The undersigned certifies to the supplier and to the CPA that he is a _____ (distributor or qualified manufacturer) and that the quantities of softwood plywood covered by this order (together with all other certified orders placed with this or other suppliers for softwood plywood for delivery in the months specified in this order) do not exceed the amounts he has been allowed under Order L–358 with the provisions of which he is familiar.
>
> Date_____
>
> _____
> Signature
>
> _____
> Serial number

(2) Certificate must be signed manually or as explained in PR 7. However, the standard form described in that regulation cannot be used in place of the certificate described above. The certificate required in this order cannot be waived under paragraph (f) of PR 7. All persons except distributors must insert a serial number in the place provided in the certificate. An order bearing a certificate without a serial number where required must be treated as an uncertified and unrated order.

NOTE: Former paragraph (k) deleted and former paragraph (l) redesignated (j) Jan. 28, 1947.

Miscellaneous

(j) *Miscellaneous.* The following provisions generally affecting all persons ordering softwood plywood should be carefully read:

(1) *Status of certified orders.* Certified orders for the purpose of this order are subject to the rules for acceptance and rejection of rated orders as provided in Priorities Regulation 1 as if they were rated orders. The order of precedence where orders are received by a plywood manufacturer is: (i) AAA, (ii) MM; (iii) certified. The order of precedence where orders are received by distributors, cabinet manufacturers and door manufacturer is as follows: (i) AAA, (ii) MM; (iii) CC, HH and certified orders which are all three of equal value.

(2) *Extension of rated orders.* Any person who has received a rated order for the delivery of construction or door plywood may extend the rating to his suppliers (except to a plywood manufacturer) to get plywood which he will deliver on that order subject to applicable inventory regulations. If a person has made delivery of construction or door plywood on a rated order, he may extend the rating to his suppliers (except to a plywood manufacturer) to replace the amount in his inventory subject to applicable inventory regulations. A door or cabinet manufacturer who has received a rated order for doors or cabinets or who has delivered them on a rating, may extend the rating to his suppliers (except to a plywood manufacturer) for the amount of construction or door plywood used or to be used in the manufacture of the doors or cabinets. These rules supersede paragraphs (d) and (d–1) of Priorities Regulation 3 on the extension of ratings.

(3) *Applicability of regulations.* Except as otherwise required by this order Priorities Regulations 1 and 3 and Schedule A to PR 33 govern the use of ratings and the acceptance, scheduling and filling of orders. All other applicable regulations and orders of the Civilian Production Administration must be observed.

(4) *Violations.* Any person who wilfully violates any provisions of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(5) *Reports.* Every person shall file with the Civilian Production Administration, or any other federal agency designated by CPA, such reports and questionnaires as the Civilian Production Administration or such other agency may from time to time require subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(6) *Appeals.* Any appeal from the provisions of this order shall be made by mailing a letter in triplicate to the Civilian Production Administration, Forest Products Division, Washington 25, D. C., Ref.. L–358, stating the particular provisions appealed from and stating fully the grounds for the appeal.

(7) *Communications.* All communications unless otherwise directed must be addressed as follows: Civilian Production Administration, Forest Products Division, Washington 25, D. C.

(8) *Directives.* The Civilian Production Administration may issue directives to plywood manufacturers, cabinet manufacturers, door manufacturers or distributors to set aside specific quantities or percentages of production or shipments for persons placing certified or rated orders. CPA may also allocate the production or shipments to specified persons for specified uses and may direct how and in what quantities deliveries to specified persons or uses may be made. It may also direct distribution to particular areas and may direct or prohibit the production by any person of particular items of softwood plywood, cabinets, or doors. Directives according to their terms may take precedence over rated or certified orders. They may be issued for the satisfaction of Veterans' Emergency Housing Program and other essential civilian requirements, including Temporary Re-Use Housing under Direction 11 to PR 33, and in order to carry out more fully the purposes of this order.

(k) *Effective date.* Order L–358 as amended January 28, 1947 shall become effective February 1, 1947. Order L–358 as amended November 19, 1946 shall remain in effect until February 1, 1947.

Issued this 28th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47–924; Filed, Jan. 28, 1947; 11:20 a. m.]

PART 3285—LUMBER AND LUMBER PRODUCTS

[Limitation Order L–359, as Amended Jan. 28, 1947]

LUMBER, HARDWOOD FLOORING AND MILLWORK

There is a shortage in the supply of lumber, hardwood flooring and millwork for defense, for private account and for export. Lumber, millwork and hardwood flooring are necessary for the construction and completion of housing accommodations in rural and urban areas and for the construction and repair of essential farm buildings, and special priorities for the deliveries of lumber, millwork, and hardwood flooring for these purposes are established in Schedule A to Priorities Regulation 33. This order is necessary and appropriate in the public interest, to promote the national defense and to effectuate the purposes of the Veterans' Emergency Housing Act of 1946.

§ 3233.153 *Limitation Order L–359—*(a) *What this order does.* This order provides that sawmills shall produce a percentage of their total production of softwood lumber in housing construction lumber. It applies to all sawmills and to lumber suppliers, manufacturers of millwork, hardwood flooring and house trailers, prefabricators and builders and other consumers who have been assigned priorities assistance. Rated orders must

be accepted and filled as provided in Priorities Regulation 1. However, a ceiling is provided for rated orders and the filling of unrated orders is permitted where the filling of such orders will not interfere with the filling of rated orders.

Definitions

(b) *Definitions for the purpose of this order.*

(1) "Lumber" means any sawed lumber of any species, size, or grade, including rough, surfaced on one or more sides or edges, dressed and matched, shiplapped, worked to pattern, or grooved for splines, except (i) shingles, slabs and round edge lumber; (ii) mine and railway cross ties nine feet or less in length; (iii) any segment of a log which has been produced so that it can be converted into veneer and which is sold and used for that purpose.

(2) "Housing construction lumber" means softwood lumber in the form of flooring, ceiling, siding, partition, casing, base, moulding stock, strips and boards, two-inch dimension, finish, shop and lath.

(3) "Hardwood flooring lumber" means Grades 2 and 3a common, of rough Oak, Hard Maple, Beech and Birch in 5/8, 4/4 and 5/4 thicknesses; and Grades 2 and 3 common, of rough Pecan in 5/8, 4/4 and 5/4 thicknesses.

(4) "Millwork" means only sash, windows, doors, interior and exterior frames for the foregoing, combination doors and garage doors; storm sash and storm doors; window, sash and door screens; porch columns, louvres and newels; standing interior trim for doors and windows and cased openings; crown, bed, cove, brick, screen, panel, band and cornice mouldings; quarter, half and full rounds; window and door steps; nosing; screen, sash, sill and frame stock; hook strip, corner and glass bead; chair, porch and hand rails; shelf cleat; panel strips; stools and aprons; lattice; drip cap and water table; back bank, cap trim, floor and base moulding; astragals, and baluster stock; mantels; built-in kitchen cabinets, medicine cases, china cabinets, ironing boards and linen closets.

(5) "Sawmill" means: (i) a person operating any mill or plant, stationary or portable, that produces lumber. The term includes a person who has logs manufactured into lumber by a sawmill, except a person who has less than 5,000 feet a quarter of his own logs sawed into lumber for his own use; (ii) a person operating any plant or concentration yard which processes (by drying, resawing, edging, grading, sorting, planing, or otherwise) 25 percent or more of the total volume of logs and lumber which it receives, into an item which is defined as lumber. However, the term "sawmill" does not include any establishment known in the trade as a distribution yard, even though owned by a sawmill, engaged in either retail or wholesale business and even though it may process, for the servicing of special orders from consumers, more than 25 percent of the lumber it receives.

(6) "Distributor" means any person who buys and stocks millwork or hardwood flooring for resale and lumber for resale as lumber either at wholesale or retail. The term "distributor" also includes any establishment owned or operated by a sawmill where lumber is sold at either wholesale or retail. A distributor who has two or more distinct and separate yards must for the purpose of this order, consider each yard a "distributor"

(7) "Cut-stock manufacturer" means a person who supplies from his production plant stock surfaced 2-sides, cut to approximate net sizes for the manufacture of doors, sash, check rail and plane rail windows, exterior frames and inside jambs. Cut-stock for doors, windows and sash consists of stock cut to approximate net sizes S2S and not further machined for stiles, rails, bars, muntins, meeting rails and facings for door stiles. Cut-stock for frame parts consists of stock cut to approximate net sizes S2S and not further machined for pulley stiles, blind and parting stops, outside casings, sills, drip cap and brick mould.

Sawmills

(c) *Sawmills*—(1) *Softwood lumber.* Each sawmill shall manufacture at least 50% of its total monthly production of softwood lumber in the form of housing construction lumber. 85% of all 8/4 and thinner Douglas Fir shop and Western Pine shop including No. 3 clears must be sold only to millwork and cut-stock manufacturers or to persons who certify in writing they will sell to millwork or cut-stock manufacturers. A sawmill need not accept or fill rated orders for more than 50% of its total production of softwood lumber in any month. It may not fill MM rated orders for more than 5% of its total production of softwood lumber in any month.

(2) *Hardwood lumber.* Each sawmill shall sell only to hardwood flooring manufacturers, or to persons who certify in writing they will sell to hardwood flooring manufacturers, all the hardwood flooring lumber it produces.

(3) *Seasoning.* Where it is the customary practice of a sawmill to season lumber by air drying, and the lumber is properly piled for seasoning and carried in inventory for this purpose, such lumber will not be considered as produced until seasoned for the customary period.

(4) *Orders must be accepted or rejected promptly.* A sawmill must accept or reject rated orders in writing within 5 days of receipt. Reasons for rejection of a rated order must be stated.

Distributors

(d) *Distributors.* (1) A distributor is authorized to apply an HH rating on orders for delivery each quarter for housing construction lumber for the greater of the following amounts:

(i) an amount of housing construction lumber not exceeding 15% of the amount of footage in inventory of all softwood lumber as of January 1, 1942, or

(ii) two carloads of housing construction lumber at the rate of not more than one carload in any month of the quarter.

Distributors who apply a rating under (i) or (ii) above must use the certificate provided in paragraph (i) below.

(2) Instead of applying an HH rating as provided in paragraph (d) (1) above, a distributor may in any quarter extend HH ratings for the amount of housing construction lumber which he will deliver or has delivered on HH rated orders accepted by him for delivery in that quarter. Rated orders placed with a distributor before October 1, 1946, may not be extended.

(3) A distributor must sell only to millwork or cut-stock manufacturers, or persons who certify that they will sell only to millwork or cut-stock manufacturers, 85% of all 8/4 and thinner Douglas Fir shop and Western Pine shop including No. 3 clears received in any quarter on unrated orders.

(4) A distributor need not use more than 50 percent of the softwood lumber received in any quarter on HH rated orders placed under paragraph (d) (1) (i) or (ii) to fill rated orders.

(5) A distributor need not use more than 50 percent of the lumber he receives in any quarter on unrated orders to fill rated orders.

(6) A distributor may not fill MM rated orders for more than 10 percent of his total receipts in any quarter of softwood lumber.

(7) A distributor may extend HH ratings for the amount of millwork or hardwood flooring which he will deliver or has delivered on HH rated orders.

Millwork and Cut-Stock Manufacturers

(e) *Millwork and cut-stock manufacturers*—(1) *Extension of HH ratings.*

(i) A millwork or cut-stock manufacturer who receives HH rated orders may extend the HH rating to his supplier for the housing construction lumber or cut-stock to be incorporated or used in the millwork or cut-stock to be delivered on HH rated orders.

(ii) Where a millwork or cut-stock manufacturer has already delivered millwork or cut-stock on an HH rated order, he may extend the rating for the amount of housing construction lumber or cut-stock he used in the manufacture of the millwork or cut-stock delivered on the HH rated order.

(2) A millwork manufacturer need not accept or fill rated orders for millwork manufactured from lumber received on unrated orders.

Hardwood Flooring Manufacturers

(f) *Hardwood flooring manufacturers*—(1) *Extension of ratings.* (i) A hardwood flooring manufacturer who receives HH rated orders may extend the HH rating to his supplier for the hardwood flooring lumber to be incorporated or used in the hardwood flooring to be delivered on HH rated orders.

(ii) Where a hardwood flooring manufacturer has already delivered hardwood flooring on HH rated orders, he may extend the HH rating for the amount of hardwood flooring lumber he used in the manufacture of the hardwood flooring delivered on HH rated orders.

(2) A hardwood flooring manufacturer need not accept or fill rated orders for hardwood flooring manufactured from hardwood flooring lumber received on unrated orders.

Builders and Prefabricators

(g) *Builders and prefabricators.* A builder or prefabricator may place HH rated orders for a quantity of housing construction lumber, millwork or hardwood flooring for which he has received priorities assistance. While Schedule A to Priorities Regulation 33 lists residential hardwood flooring only, HH ratings may be used by the above persons to obtain any suitable hardwood flooring. A builder or prefabricator placing an HH rated order should use the certificate provided in paragraph (i) of Schedule A to Priorities Regulation 33.

Integrated Operations

(h) *Integrated operations.* A person having integrated operations which are subject to this order must treat each operation as a separate unit. Each unit must conform to all the applicable provisions of this order.

Certificate for Application of Rating by Distributors

(i) *Certificate for application of rating by distributors.* (1) A distributor applying an HH rating to an order for housing construction lumber under paragraph (d) (1) (i) or (ii) must endorse on or attach to the purchase order, sales ticket or other delivery orders, the following certificate:

VETERANS' EMERGENCY HOUSING PROGRAM

I certify to the U. S. Government that HH rating has been assigned for the materials covered by this order. The quantities covered by this order (together with the quantities called for by all other rated HH or certified orders placed with this or other suppliers for softwood lumber for delivery in the quarter specified in this order) do not exceed the amount permitted under Limitation Order L-359 with the provisions of which I am familiar.

Date ---------- ----------
(Signature)
(Distributor).

(2) The certificate must be signed manually or as explained in Priorities Regulation 7. However, the standard form described in that regulation may not be used in place of certificate described in this order. The certification required by this order may not be waived under paragraph (f) of Priorities Regulation 7.

NOTE: Present paragraph (j) added and former paragraph (j) redesignated (k) Jan. 28, 1947.

Office Wholesaler

(j) *Office wholesaler* An office wholesaler who buys housing construction lumber, hardwood flooring lumber, millwork or hardwood flooring for resale without stocking it, may extend an HH rating to his supplier, for direct mill shipment of such orders in not less than carload lots, in an amount not in excess of the amount called for by the rated orders which he has received.

Miscellaneous

(k) The following provisions generally affect all persons operating under this order and should be carefully read:

(1) *Extension of ratings.* Rules for extendibility of HH ratings are set out in paragraph (d) (e) (f) and (j) The extendibility of all other ratings is governed by the rules of Priorities Regulation 3.

(2) *Treatment of certified orders.* Any person who before January 1, 1947, has received an order certified under Order L-359, dated October 18, 1946, must treat such order as an HH rated order. Any person authorized to place HH ratings under this order must reduce the quantity of lumber for which he places HH ratings by the quantity of his unfilled certified orders for lumber on January 1, 1947.

(3) *Applicability of regulations.* Except as otherwise required by this order, Priorities Regulations 1 and 3 continue to govern the use of ratings and the acceptance, scheduling and filling of orders. All other applicable regulations and orders of the Civilian Production Administration must be observed where not inconsistent with this order.

(4) *Violations.* Any person who wilfully violates any provision of this order or who in connection with this order wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priorities control and may be deprived of priorities assistance.

(5) *Reports.* Every person shall file with the Civilian Production Administration, or any other federal agency designated by the Civilian Production Administration such reports and questionnaires as the Civilian Production Administration or such other agency may from time to time require subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(6) *Directives.* The Civilian Production Administration may issue directives requiring sawmills, millwork manufacturers, cut-stock manufacturers or hardwood flooring manufacturers or distributors to set aside specific quantities or percentages of production or shipment for persons placing rated orders. CPA may also allocate production or shipment to specified persons for specified uses, and may direct how and in what quantities deliveries to specified persons or uses may be made. It may also direct distribution to particular areas and may direct or prohibit the production by any persons of particular items of lumber, millwork, cut-stock or hardwood flooring. Directives according to their terms may take precedence over rated orders. They may be issued for the satisfaction of Veterans' Emergency Housing Program and other essential requirements, and in order to carry out more fully the purposes of this order.

(7) *Appeals.* An appeal from the provisions of this order should be made by mailing a letter in triplicate to the Civilian Production Administration, Forest Products Division, Washington 25, D. C., Ref.. L-359, or to the Civilian Production Administration, Portland, Oregon, Ref.. L-359, when made by persons in the states of Washington, Oregon, California, Idaho, Wyoming, Montana, Nevada, Utah, Colorado, Arizona, New Mexico, or South Dakota, stating the particular provision appealed from and stating fully the grounds for the appeal.

(8) *Communications.* All communications unless otherwise directed must be addressed as follows: Civilian Production Administration, Forest Products Division, Washington 25, D. C.

(9) [Deleted Jan. 28, 1947.]

Issued this 28th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-923; Filed, Jan. 28, 1947; 11:19 a. m.]

PART 3292—AUTOMOTIVE VEHICLES, PARTS AND EQUIPMENT

[Limitation Order L-352, as Amended Jan. 28, 1947]

EXPORT OF AUTOMOBILES AND TRUCKS

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of automobiles and trucks for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 3292.136 *General Limitation Order L-352*—(a) *Definitions.* For the purposes of this order:

(1) "Automobile" means any self-propelled vehicle designed for the purpose of carrying passengers, or the chassis therefor, with a seating capacity of not more than ten persons, including station wagons, taxicabs and coupes with or without pickup boxes, but not including ambulances, hearses or sedan deliveries.

(2) "Truck" means any light, medium or heavy motor truck, truck-tractor or the chassis therefor, or any chassis on which a bus body is to be mounted and which (i) was designed to be propelled or drawn by mechanical power; (ii) was designed for use on or off-the-highway, for transportation of property or persons. This definition includes vehicles of the following types: trucks, truck chassis, truck tractors, off-the-highway motor vehicles, bus chassis, carry-all suburbans, sedan deliveries and cab pickups, but does not include station wagons, coupes, fitted with pickup boxes, ambulances, hearses, taxicabs and integral type busses.

(b) *Limitations on production for export, and on export.* No producer of automobiles shall produce for export, or shall export, to any foreign country in-

cluding Canada, any automobiles in excess of the quantities authorized by the Civilian Production Administration under this order. This does not apply to automobiles purchased by the Army Exchange Service for shipment and resale outside the United States. Exports to any country other than Canada are subject to the export license requirements of the Office of International Trade, Department of Commerce.

This order no longer limits the production for export or the export, of trucks, but producers of trucks must continue to file reports under paragraph (d) below.

(c) *Export quotas for new exporters and adjustments of quotas.* Producers of automobiles who have not previously exported such vehicles, and producers who desire adjustments in their export quotas may apply to the Automotive Branch, Equipment Division, Civilian Production Administration, Washington 25, D. C.

(d) *Reports.* Producers of automobiles and trucks shall report monthly to the Civilian Production Administration, the production of automobiles on Form CPA-4300 and the production of trucks on Form CPA-4341, in accordance with the instructions accompanying the forms.

(e) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment.

(f) *Communications.* All communications concerning this order shall, unless otherwise directed, be addressed to: Automotive Branch, Equipment Division, Civilian Production Administration, Washington 25, D. C., Ref.. Order L-352.

Issued this 28th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-922; Filed, Jan. 28, 1947; 11:19 a. m.]

PART 3294—IRON AND STEEL PRODUCTION

[General Preference Order M-21, Revocation of Directions 12, 14-17]

The following published directions to General Preference Order M-21 are hereby revoked:

Direction 12.
Direction 14.
Direction 15.
Direction 16.
Direction 17.

These revocations do not affect any liabilities incurred for violation of these directions, or of actions taken by the Civilian Production Administration under these directions.

Issued this 28th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-919; Filed, Jan. 28, 1947; 11:19 a. m.]

PART 3294—IRON AND STEEL PRODUCTION

[General Preference Order M-21, Direction 10, as Amended Jan. 28, 1947]

USE AND EFFECT OF SYMBOL CXS ON CERTAIN ORDERS FOR SELECTED STEEL PRODUCTS

The following amended direction is issued pursuant to General Preference Order M-21.

(a) *What this direction does.* This direction explains how certain exporters who have been authorized by the Office of International Trade, Department of Commerce, to use the symbol CXS (Certified Export Steel) on purchase orders for limited quantities of selected steel products should furnish that information to steel producers. Such orders are to be treated as rated orders. The Civilian Production Administration may also establish space reservations on steel producers' schedules for the benefit of these export orders.

(b) *Identification of certified export orders.* Any person who has been authorized in writing by the Office of International Trade, Department of Commerce, to use the symbol CXS on purchase orders for limited quantities of selected steel products should, in addition to marking his purchase order with the symbol, specify the period in which shipment has been designated, and furnish the steel producer with a certificate, signed manually or as described in Priorities Regulation 7 in substantially the following form:

> I certify, subject to the penalties of section 35A of the United States Criminal Code, that the steel products covered by this purchase order are within the quantity which I have been authorized by the Office of International Trade, Department of Commerce, to purchase the orders identified with the symbol CXS.

The standard certificate described in Priorities Regulation 7 may not be used in place of this certificate.

(c) *Requests for authorization to use the symbol CXS.* All requests for authorization to use the symbol CXS should be addressed to the Steel Section, Office of International Trade, Department of Commerce, Washington 25, D. C.

(d) *Certified orders must be treated as rated orders.* Unless the CPA directs otherwise, any purchase order certified under this Direction must be treated as a CC rated order under Priorities Regulation 1, and be accepted, scheduled, and delivered accordingly. Where a conflict exists between certifications, preference is to be given to the certification first received (irrespective of when the purchase order was placed). The rules of Priorities Regulation 1 will apply, except to the extent that this direction is inconsistent with them. Steel obtained on certified orders must be used in accordance with § 944.11 of that regulation.

(e) *Refusal of certified orders.* (1) CXS orders may only be placed with steel producers for mill shipments. They may not be placed with distributors for shipment from warehouses.

(2) Steel producers need not accept a CXS certification on a previously accepted purchase order, or a new purchase order, which was received after the first day of the month preceding the month in which delivery is requested.

(3) [Deleted Jan. 28, 1947.]

(f) *Other distribution of steel for export.* The provisions of this direction do not restrict acceptance, scheduling or shipment of noncertified orders for export, if it does not interfere with shipments of certified orders.

Issued this 28th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-920; Filed, Jan. 28, 1947; 11:19 a. m.]

PART 3292—AUTOMOTIVE VEHICLES, PARTS AND EQUIPMENT

[Limitation Order L-352. Revocation of Interpretation 1]

EXPORT OF AUTOMOBILES AND TRUCKS

Interpretation 1 to Order L-352 is revoked as it is superseded by paragraph (b) of the order as amended January 28, 1947.

Issued this 28th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-921; Filed, Jan. 28, 1947; 11:19 a. m.]

Chapter XVIII—Office of Temporary Controls, Office of War Mobilization and Reconversion (Stabilization)

[Directive 146]

PART 4003—SUPPORT PRICES: SUBSIDIES

LIMITATIONS ON ROYALTY PAYMENTS FOR COPPER, LEAD AND ZINC

The Premium Price Plan for Copper, Lead and Zinc provides by its general administrative rules that premiums shall not include allowances for excessive royalties. This was more specifically provided for by Maximum Price Regulation 356, issued April 1, 1943, by the Office of Price Administration. Under that regulation payment of royalties in excess of certain limits was prohibited. Maximum Price Regulation 356 was revoked, however, on November 10, 1946, along with other price regulations dealing with services and commodities. This directive is therefore issued to prevent allowances for excessive royalties in making premium payments by restoring in substance the practices in effect on November 10, 1946.

Accordingly, it is hereby ordered that:

§ 4003.67c *Limitations on royalty payments under the Premium Price Plan for Copper, Lead and Zinc.* (a) (1) For all mines, except those in the Tri-State

area, any royalty shall be accepted as a reasonable cost for purposes of premium payments: *Provided,* That the royalty rate stipulated is no greater than that which prevailed on November 10, 1946, and the royalty is calculated (i) on the sum of the market price plus assigned premiums, but not to exceed a total for both of 11¢ per pound of zinc; 9¼¢ per pound for lead; and 17¢ per pound for copper, or (ii) on the market price for each of these metals, whichever is higher;

(2) For all mines in the Tri-State area, any royalty shall be accepted as a reasonable cost for purposes of premium payments: *Provided,* That the royalty rate stipulated is no greater than that which prevailed on November 10, 1946, and the royalty is calculated, in the case of zinc, on (i) no more than the Joplin price of 60% standard zinc concentrates plus premium payments, but not to exceed a total for both of $79.70 per ton, and in the case of lead no more than the Joplin price of 80% standard lead concentrates plus premium payments, but not to exceed a total for both of $118.00 per ton, or on (ii) the Joplin market price for standard zinc and lead concentrates, whichever is higher;

(3) Where no royalty rate was established on November 10, 1946, for a particular operation, the general level of royalty rates in effect on that date for comparable operations in the same mining area shall determine the maximum rate acceptable as reasonable for purposes of premium payments.

(b) The Reconstruction Finance Corporation is hereby authorized and directed to put into effect the foregoing provisions in carrying out the Premium Price Plan. The Commissioners of Price Administration and Civilian Production Administration have been instructed to give effect to the foregoing provisions.

This directive shall become effective immediately.

(56 Stat. 765, 58 Stat. 632, 642, 784, 59 Stat. 306, Pub. Law 548, 79th Cong., 15 U. S. C. Sup. 713a–8, 713a–8 note, 50 U. S. C. App. Sup. 901–903, 921–925, 961–971, E. O. 9250, Oct. 3, 1942, 7 F R. 7871, E. O. 9328, April 8, 1943, 8 F. R. 4681, E. O. 9599, Aug. 18, 1945, 10 F R. 10155, E. O. 9651, Oct. 30, 1945, 10 F R. 13487, E. O. 9697, Feb. 14, 1946, 11 F R. 1691, E. O. 9699, Feb. 21, 1946, 11 F R. 1929, E. O. 9762, July 25, 1946, 11 F R. 8073, E. O. 9809, Dec. 12, 1946, 11 F R. 14281)

Issued this 23d day of January 1947.

PHILIP B. FLEMING,
Temporary Controls Administrator

[F. R. Doc. 47–836; Filed, Jan. 28, 1947; 8:50 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard: Inspection and Navigation

[CGFR 47–2]

AMENDMENTS TO REGULATIONS

By virtue of the authority vested in me, I find that an emergency exists and the following amendments to the regulations are prescribed and shall become effective upon the date of publication of this order in the FEDERAL REGISTER.

It is found that the critical shortage of certain materials during the war caused the manufacturing of certain items to be discontinued or greatly curtailed and it became necessary in the successful prosecution of the war to issue orders under the authority of section 501 of the Second War Powers Act waiving certain requirements of the regulations in this chapter for certain equipment and installations. As the authority for the issuance of waivers under the terms of the statute, as extended, will expire on March 31, 1947, it will be necessary in all instances to comply with the requirements of the regulations is this chapter after that date.

It is hereby further found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) or R. S. 4417a as amended (46 U. S. C. 391a) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which these regulations are based became available and when these regulations must become effective is insufficient for such compliance, and since postponement in issuing the regulations will work an unique hardship in converting merchant vessels to peacetime operation.

The purpose of these regulations will be to permit certain equipment or installations, if found to be satisfactory by the Commandant for the purpose intended, to be continued in service so long as in good and serviceable condition.

Subchapter D—Tank Vessels

PART 31—INSPECTION AND CERTIFICATION

GENERAL

Part 31 is amended by adding a new § 31.1–7 reading as follows:

§ 31.1–7 *Equipment installations on vessels during World War II—TB/ALL.* Boilers, pressure vessels, machinery, piping, electrical and other installations, including lifesaving, fire-fighting, and other safety equipment, installed on vessels during the Unlimited National Emergency declared by the President on May 27, 1941, and prior to the termination of Title V of the Second War Powers Act, as extended (Sec. 501, 56 Stat. 180; 50 U. S. C., App. Sup., 635) which do not fully meet the detailed requirements of the regulations in this chapter, may be continued in service if found to be satisfactory by the Commandant for the purpose intended. In each instance prior to final action by the Commandant, the Officer in Charge, Marine Inspection, shall notify Headquarters of the facts in the case, together with recommendations relative to suitability for retention. (R. S. 4405 and 4417a, as amended; 46 U. S. C. 375, 391a; sec. 101, Reorganization Plan No. 3 of 1946; 11 F R. 7875)

Subchapter G—Ocean and Coastwise: General Rules and Regulations

PART 63—INSPECTION OF VESSELS

Section 63.16 is amended by designating the present material therein as paragraph (a) and by adding a new paragraph (b) reading as follows:

§ 63.16 *Use of approved equipment.* * * *

(b) Boilers, pressure vessels, machinery, piping, electrical and other installations, including lifesaving, fire-fighting, and other safety equipment, installed on vessels during the Unlimited National Emergency declared by the President on May 27, 1941, and prior to the termination of Title V of the Second War Powers Act, as extended (sec. 501, 56 Stat. 180, 50 App. Sup., 635) which do not fully meet the detailed requirements of the regulations in this chapter, may be continued in service if found to be satisfactory by the Commandant for the purpose intended. In each instance prior to final action by the Commandant, the Officer in Charge, Marine Inspection, shall notify Headquarters of the facts in the case, together with recommendations relative to suitability for retention. (R. S. 4405, 4417, 4417a, 4418, 4426, 4429, 4433, 4453, 4470, 4471, 4479, 4481, 4482, 4488, and 4491, as amended; 35 Stat. 428, sec. 1, 49 Stat. 1544, sec. 2, 54 Stat. 1028, sec. 8, 55 Stat. 244; 46 U. S. C. 367, 375, 391, 391a, 392, 396, 404, 407, 411, 435, 463, 463a, 464, 472, 474, 475, 481, 489, 50 U. S. C. 1275; sec. 101, Reorganization Plan No. 3 of 1946, 11 F R. 7875)

Subchapter H—Great Lakes: General Rules and Regulations

PART 79—INSPECTION OF VESSELS

Section 79.18 is amended by designating the present material therein as paragraph (a) and by adding a new paragraph (b) reading as follows:

§ 79.18 *Use of approved equipment.* (See § 63.16 of this chapter as amended, which is identical with this section.)

Subchapter I—Bays, Sounds, and Lakes Other Than the Great Lakes: General Rules and Regulations

PART 97—INSPECTION OF VESSELS

Section 97.17 is amended by designating the present material therein as paragraph (a) and by adding a new paragraph (b) reading as follows:

§ 97.17 *Use of approved equipment.* (See § 63.16 of this chapter, as amended, which is identical with this section.)

Subchapter J—Rivers: General Rules and Regulations

PART 116—INSPECTION OF VESSELS

Section 116.17 is amended by designating the present material therein as paragraph (a) and by adding a new paragraph (b) reading as follows:

§ 116.17 *Use of approved equipment.* (See § 63.16 of this chapter, as amended, which is identical with this section.)

Dated: January 23, 1947.

[SEAL] MERLIN O'NEILL,
Rear Admiral, U. S. C. G.,
Acting Commandant.

[F. R. Doc. 47–845; Filed, Jan. 28, 1947; 8:51 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 1—ORGANIZATION, PRACTICE AND PROCEDURE

AUTHORITY DELEGATED TO SECRETARY UPON SECURING APPROVAL OF LAW DEPARTMENT

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C. on the 16th day of January 1947:

Whereas it appears that public interest, convenience and necessity will be served by delegating authority to the Secretary of the Commission, or in his absence, the Acting Secretary, upon securing the approval of the General Counsel or his nominee, to extend the time within which transfers of control or assignments of licenses, as ordered by the Commission, be effectuated; and

It appearing, that general notice of proposed rule making is not required herein under the provisions of section 4 of the Administrative Procedure Act;

It is ordered, That § 1.143 (11 F. R. 177A-393, 13973) of the Commission's rules and regulations, be, and it is hereby, amended by adding paragraph (g) to read as follows:

§ 1.143 *Authority delegated to secretary upon securing approval of Law Department.* * * *

(g) The extension of the time previously ordered by the Commission within which transfers of control or assignments of licenses be effectuated.

It is further ordered, That the foregoing amendment to § 1.143 of the Commission's rules and regulations be, and it is effective immediately.

(Sec. 4 (i) 48 Stat. 1066, sec. 310 (b) 48 Stat. 1086; 47 U. S. C. 154 (i), 310 (b))

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-817; Filed, Jan. 28, 1947; 8:46 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Docket No. 3666]

PARTS 71-85—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES[1]

RETEST OF CYLINDERS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 21st day of January 1947.

It appearing that pursuant to section 233 of the Transportation of Explosives Act approved March 4, 1921 (41 Stat. 1445) and Part II of the Interstate Commerce Act, the Commission has formulated and published certain regulations for transportation of explosives and other dangerous articles;

It further appearing, that in application received we are asked to amend the aforesaid regulations as set forth in provisions made part hereof;

It is ordered, That the aforesaid regulations for transportation of explosives and other dangerous articles be, and are hereby, amended as follows:

Part 3—Regulations Applying to Shippers

Superseding and amending par. (p) (14) sec. 303 (*Retest of cylinders*), order June 6, 1946, to read as follows:

(m) Until further order of the Commission, liquefied petroleum gas cylinders constructed in accordance with ICC specification 4B which became due for quinquennial retest between December 7, 1941, and December 31, 1945, must be removed from service on or before June 15, 1947, unless retested as required by section 303 (p) (13) (a), (b) and other pertinent sections of these regulations.

It is further ordered, That this order amending the aforesaid regulations shall be effective forthwith; and shall continue in effect until June 15, 1947, or the further order of the Commission;

And it is further ordered, That a copy of this order be served upon all parties of record herein; and that notice of this order shall be given the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(41 Stat. 1445, 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 56 Stat. 176, 59 Stat. 658, 18 U. S. C. 383, 49 U. S. C. 304)

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-838; Filed, Jan. 28, 1947; 8:46 a. m.]

PART 95—CAR SERVICE

[Rev. S. O. 629, Corr.]

LIGHT-WEIGHING OF CARS AT ALL PORTS PROHIBITED

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 21st day of January, A. D. 1947.

It appearing, that the practice of weighing empty railroad cars and again weighing them after being loaded with imported commodities at points in all United States ports is aggravating the railroad car shortage and impeding the use, control, supply, movement and distribution of such cars; in the opinion of the commission an emergency exists requiring immediate action at all ports on the Atlantic, Pacific and Gulf coasts. It is ordered, that:

§ 95.620 *Light-weighing of cars at all ports prohibited—*(a) *Railroad cars not to be light-weighed.* No common carrier by railroad subject to the Interstate Commerce Act, shall light-weigh a railroad car or cars intended for loading with imported commodities at any point in the port areas of any port on the Atlantic, Pacific or Gulf coasts; nor transport or move such railroad car light-weighed and loaded with imported commodities in violation of this section from any point in the areas of such ports.

(b) *Tariffs suspended.* The operation of all tariff rules or regulations insofar as they conflict with the provisions of this section is hereby suspended.

(c) *Announcement of suspension.* Each of such railroads, or its agent, shall publish, file, and post a supplement in substantial accordance with the provisions of Rule 9 (k) of the Commission's Tariff Circular No. 20 § 141.9 (k) of this chapter) to each of its tariffs affected hereby, announcing the suspension as required by paragraph (b) of this section.

(d) *Effective date.* This section shall become effective at 12:01 a. m., January 31, 1947.

(e) *Expiration date.* This section shall expire at 11:59 p. m., May 10, 1947, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, that this order shall vacate and supersede Service Order No. 620 on the effective date hereof; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 418, 41 Stat. 476, 485, sec. 4, 10, 54 Stat. 901, 912; 49 U. S. C. 1 (10)-(17), 15 (4))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-837; Filed, Jan. 23, 1947; 8:47 a. m.]

Chapter II—Office of Defense Transportation

PART 500—CONSERVATION OF RAIL EQUIPMENT

SHIPMENTS OF CERTIFIED SEED POTATOES

CROSS REFERENCE: For an exception to the provisions of § 500.72, see Part 520 of this chapter, *infra.*

[General Permit ODT 18A, Rev. 22, Amdt. 2]

PART 520—CONSERVATION OF RAIL EQUIPMENT; EXCEPTIONS, PERMITS AND SPECIAL DIRECTIONS

SHIPMENTS OF CERTIFIED SEED POTATOES

Pursuant to Title III of the Second War Powers Act, 1942, as amended, Executive Order 8989, as amended, Executive Order 9729, and General Order ODT 18A, Revised, as amended, General Permit

[1] Part 3 in this order appears in CFR as Part 75.

ODT 18A, Revised-22, as amended, is hereby amended to read as follows:

§ 520.520 *Shipments of certified seed potatoes.* Notwithstanding the restrictions contained in § 500.72 of General Order ODT 18A, Revised, as amended (11 F R. 8229, 8829, 10616, 13320, 14172) and Items 465, 470, 475 and 600 of Special Direction ODT 18A–2A, as amended (9 F R. 118, 10 F R. 14906, 11 F R. 14114) any person may offer for transportation and any carrier may accept for transportation:

(a) At point of origin, forward from point of origin, or load and forward from point of origin, any carload freight consisting of certified seed potatoes properly tagged and certified by the official state seed certifying agency when the quantity thereof in each car is not less than 45,000 pounds;

(b) At any point of origin in the States of California, Oregon or Washington, forward from any such point of origin, or load and forward from any such point of origin, any carload freight consisting of certified seed potatoes of the variety known as "White Rose" properly certified and tagged by the official state seed certifying agency, when the quantity thereof in each car is not less than 36,000 pounds, and the destination of the car so loaded is any point in the State of California.

This Amendment 2 to General Permit ODT 18A, Revised–22, shall become effective January 25, 1947, and shall expire at 11:59 p. m., March 31, 1947, unless otherwise ordered.

(54 Stat. 676, 55 Stat. 236, 56 Stat. 177, 58 Stat. 827, 59 Stat. 658, Pub. Law 475, 79th Cong., 60 Stat. 345; 50 U. S. C. App. Sup. 633, 645, 1152, E. O. 8989, Dec. 18, 1941, 6 F R. 6725, E. O. 9389, Oct. 18, 1943, 8 F. R. 14183, E. O. 9729, May 23, 1946, 11 F. R. 5641

Issued at Washington, D. C., this 22d day of January 1947.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

[F. R. Doc. 47-849; Filed, Jan. 28, 1947; 8:30 a. m.]

PROPOSED RULE MAKING

FEDERAL TRADE COMMISSION

[16 CFR, Chapter I]

[File No. 21-402]

HOUSEHOLD DYE INDUSTRY

NOTICE OF HEARING AND OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS, OR OBJECTIONS

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 24th day of January A. D. 1947.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, partnerships, corporations, associations, or other parties or groups (including consumers) affected by or having an interest in the proposed trade practice rules for the Household Dye Industry, to present to the Commission their views concerning said rules, including such pertinent information, suggestions, or objections as they may desire to submit, and to be heard in the premises. For this purpose they may obtain copies of the proposed rules upon request to the Commission. Such views, information, suggestions, or objections may be submitted by letter, memorandum brief, or other communication, to be filed with the Commission not later than February 13, 1947. Opportunity to be heard orally will be afforded at the hearing beginning at 10 a. m., February 13, 1947, in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D. C. to any such persons, parties, groups, or consumers who desire to appear and be heard. After due consideration of all matters presented in writing or orally, the Commission will proceed to final action on the proposed rules.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 47-860; Filed, Jan. 28, 1947; 8:48 a. m.]

UNITED STATES TARIFF COMMISSION

[19 CFR, Chapter II]

COTTON STAPLE OF 1⅛ INCHES OR MORE IN LENGTH

PUBLIC NOTICE OF REOPENING OF INVESTIGATION AND HEARING

The United States Tariff Commission, on this 23d day of January 1947, announces the reopening of its Investigation No. 1 under section 22 of the Agricultural Adjustment Act (of 1933) as amended, and under Executive Order No. 7233 of November 23, 1935, with respect to Cotton having a staple of 1⅛ inches or more in length.

Quotas on imports of cotton having a staple of 1⅛ inches or more in length were originally made effective on September 20, 1939 by Presidential proclamation. These quotas were later modified by subsequent proclamation to exclude therefrom cotton having a staple of 1 1/16 inches or more in length, so that since December 19, 1940 the quotas on long staple cotton were applied only to cotton having a staple of 1⅛ inches or more but less than 1 1/16 inches in length. The principal object of reopening the investigation and holding a hearing at this time is to determine whether changed circumstances require modification of the current quota on long-staple cotton for the year ending September 19, 1947, particularly with reference to:

(a) The possible need for an increase in the current quota in order to meet the current requirements of domestic manufacturers for long-staple cotton; and, if the quota is increased,

(b) The possible need for imposing controls to insure that the cotton permitted entry under the quota is equitably distributed among the essential users.

Hearing. All parties interested will be given opportunity to be present, to produce evidence, and to be heard at a public hearing to be held in the Hearing Room of the Commission at 8th and E Streets NW., in Washington, D. C., at 10 a. m. on February 18, 1947.

Nature of information at hearing. Information submitted at the hearing must be relevant and material to the matters under investigation.

Appearances at hearing. Interested persons may appear at the hearing either in person or by representative; if several persons have a joint interest in the subject, it is suggested that effort be made for the designation of a representative in order to avoid unnecessary repetition of testimony.

[SEAL] SIDNEY MORGAN,
Secretary.

[F. R. Doc. 47-848; Filed, Jan. 28, 1947; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE NAVY

[No. 3]

SALVAGE LIFTING VESSELS, ARS (D)

NAVIGATION LIGHTS

Certificate of the Secretary of the Navy under the act of December 3, 1945 (Public Law 239, 79th Congress)

Whereas, the act of December 3, 1945 (Pub. Law 239, 79th Cong.) provides that any requirement as to the number, position, range of visibility or arc of visibility of navigation lights, required to be displayed by naval vessels under acts of Congress, as enumerated in said act of December 3, 1945, shall not apply to any vessel of the Navy where the Secretary of the Navy shall find or certify that, by reason of special construction, it is not possible with respect to such vessel or class of vessels to comply with statutory requirements as to the number, position, range of visibility or arc of visibility of navigation lights; and

Whereas, a study of the arrangement and position of the navigation lights of that class of naval vessels, known as Salvage Lifting Vessels (ARS (D)), has been made in the Navy Department, and as a result of such study, it has been determined that because of their special construction it is not possible for Salvage Lifting Vessels (ARS (D)) to comply with the requirements of the statutes enumerated in said act of December 3, 1945;

Now, therefore, I, James Forrestal, Secretary of the Navy, as a result of the aforesaid study do hereby find and certify that the class of naval vessels, known as Salvage Lifting Vessels (ARS (D)), are naval vessels of special construction and that, on Salvage Lifting Vessels (ARS (D)) with respect to the position of the masthead light and range light it is not possible to comply with the requirements of the statutes enumerated in the act of December 3, 1945.

Further, I do find and certify as follows: (a) That it is feasible to locate the aforesaid masthead light in the after part of the vessel, approximately one hundred seventy feet abaft the stem;

(b) That it is feasible to locate an additional white light (commonly termed the range light), if such light is installed, in the forward part of the vessel at a height of not less than ten feet above the hull;

(c) That the two lights, referred to in (a) and (b) shall be placed in line with the keel and the after light shall be at least fifteen feet higher than the forward light and the vertical distance between the two lights shall be less than the horizontal distance.

I further direct that the aforesaid lights shall be located in this class of vessels in the manner above described and I further certify that such location constitutes compliance as closely with the applicable statutes as I hereby find feasible.

Dated at Washington, D. C., this 20th day of December A. D., 1946.

JAMES FORRESTAL,
Secretary of the Navy.

[F. R. Doc. 47-833; Filed, Jan. 28, 1947; 8:51 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WYOMING

STOCK DRIVEWAY WITHDRAWAL NO. 120, WYOMING NO. 13, REDUCED

Correction

In F. R. Doc. 47-491, appearing at page 402 of the issue for Saturday, January 18, 1947, the first date in the first sentence should read "December 28, 1922"

CALIFORNIA

CLASSIFICATION ORDER

JANUARY 15, 1947.

1. December 9, 1946, the Secretary of the Interior classified, under the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), for leasing, as hereinafter indicated, the following-described public lands in the Los Angeles, California, land district, embracing 3,864.54 acres: (For all of the purposes mentioned in the act except business and camp sites.)

SMALL TRACT CLASSIFICATION No. 104

CALIFORNIA NO. 42

T. 1 N., R. 6 E., San Bernardino Meridian
Sec. 2, lots 1 and 2 of the NE¼, SE¼,
Sec. 4, lots 1 and 2 of the NE¼,
Sec. 4, lots 1 and 2 of the NW¼, SW¼,
Sec. 6, lots 1 and 2 of the NE¼,
Sec. 6, lots 1 and 2 of the SW¼, SE¼,
Sec. 8, W½, NE¼,
Sec. 12, all;
Sec. 14, E½,
Sec. 18, lots 1 and 2 of the SW¼, SE¼,
Sec. 20, E½, SW¼,
Sec. 30, N½ of lot 1 of the NW¼,
Sec. 30, lot 2 of the NW¼, NE¼, NE¼SE¼.

2. The lands are located in San Bernardino County, about 125 to 130 miles east of Los Angeles, and 14 to 18 miles west of Twentynine Palms. A paved highway to Twentynine Palms runs east and west through the township about a mile north of its southern boundary. Most of the tracts may be reached from this highway by passable dirt roads. The lands lie at an elevation of approximately 2900 to 3000 feet above sea level. In the northern part of the township they have an almost level contour. Farther south they are rolling or hilly. In the southwest they are rough and steep in many places. Vegetation consists of Joshua trees, cactus, greasewood, sagebrush and various other native grasses and brushes.

3. The climate prevailing is typical of the desert. Average winter temperatures vary from 50° to 60° and those of the summer from 80° to 90° The climate is accepted as a valuable aid to the treatment of bronchial, pulmonary and other disorders. Residence can be maintained throughout the year. No surface water exists in this township. Water for domestic purposes is usually hauled. Development of ground water in supplies adequate for domestic purposes should be entirely feasible with proper pumping equipment, if undertaken as group projects. Electric power, telephone service, various kinds of business, as well as recreational, educational and religious facilities exist at Twentynine Palms. The population of this area has been gradually increasing. The Navy has located a large air base north of Twentynine Palms. The area is especially attractive to disabled veterans and others with some income who require a dry climate for health purposes. Many applications exist for small tracts in this vicinity and much of the lands that have been classified under the small tract program have already been leased.

4. Pursuant to § 257.8 of the Code of Federal Regulations (43 CFR, Part 257, Cum. Supp., as amended by Circ. 1613, February 27, 1946) a preference right to a lease is accorded to those applicants whose applications (a) were regularly filed, under the regulations issued pursuant to the act, prior to 1:15 p. m. on April 8, 1946, and (b) are for the type of site for which the land subject thereto has been classified. As to such applications, this order shall become effective upon the date on which it is signed.

5. As to the land not covered by the applications referred to in paragraph 4, this order shall not become effective to permit the leasing of such land under the small tract act of June 1, 1938, cited above, until 10:00 a. m. on March 19, 1947. At that time such land shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for other preference right filings.* For a period of 90 days from 10:00 a. m. on March 19, 1947, to close of business on June 17, 1947, inclusive, to (1) application under the small tract act of June 1, 1938, by qualified veterans of World War II, for whose services recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279-283) subject to the requirements of applicable law, (2) application under any applicable public land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference; right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed on or after 1:15 p. m. on April 8, 1946, together with those present at 10:00 a. m. on February 27, 1947 shall be treated as simultaneously filed.

(c) *Date for nonpreference right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on June 18, 1947 any of the land remaining unappropriated shall become subject to application under the small tract act by the public generally.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the small tract act by the general public filed at or after 1:15 p. m. on April 8, 1946, together with those presented at 10:00 a. m. on May 29, 1947, shall be treated as simultaneously filed.

6. Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

7. All applications for the lands referred to in paragraphs 4 and 5, which shall be filed in the District Land Office at Los Angeles, California, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circ. 324, May 22, 1914, 43 L. D. 254), to the extent that such regulations are applicable. Applications under the small tract act of June 1, 1938, shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

8. Lessees under the small tract act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the Acting Director, Bureau of Land Management, improvements which, under the circumstances, are presentable, substantial, and appropriate for the use for which the lease is issued. Leases will be for a period of five years, at an annual rental of $5 for home, cabin, health, convalescent and recreational sites, payable yearly in advance.

9. The land will be leased in tracts of approximately five acres, or aliquot parts thereof, each being approximately 330 by 660 feet, or aliquot dimensions thereof, the longest dimension extending east and west in secs. 2, 12 and 14, and north and south in the remaining sections. The tracts should conform in description with the rectangular system of surveys as one compact unit.

10. Preference right leases referred to in paragraph 4 will be issued for the land described in the application, irrespective of the direction of the tract, provided the tract is made to conform to the areas and dimensions specified above.

11. Where only one 5-acre tract in a 10-acre subdivision is embraced in a preference right application, however, the district land officer is authorized to accept applications for the remaining 5-acre tract or aliquot parts thereof extending in the same direction so as to fill out the subdivision, notwithstanding the direction of the tract may be contrary to that specified above.

12. All inquiries relating to these lands shall be addressed to the District Land Office, Los Angeles 12, California.

FRED W. JOHNSON,
Acting Director.

[F. R. Doc. 47-816; Filed, Jan. 28, 1947; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rate applicable under section 6 of the act have been issued to the firms hereinafter mentioned under section 14 of the act, Part 522 of the regulations issued thereunder (August 16, 1940, 5 F. R. 2862, and as amended June 25, 1942, 7 F. R. 4725) and the determinations, orders and/or regulations hereinafter mentioned. The names and addresses of the firms to which certificates were issued, industry, products, number of learners, learner occupations, wage rates, learning periods, and effective and expiration dates of the certificates are as follows:

Independent telephone learner regulations, July 17, 1944 (9 F. R. 7125)

The special learner certificates issued to the following companies under the above regulations provide for the employment of learners in the occupation of commercial switchboard operator for a period not in excess of 480 hours at not less than 30 cents per hour for the first 320 hours and 35 cents per hour for the remaining 160 hours of the learning period. The number of learners authorized to be employed depends on the number of operators in the exchange, i. e., one learner if the exchange employs 8 operators or less, two learners if the exchange employs from 9 to 18 operators, etc. See Regulations, Part 522, § 522.083.

Central Iowa Telephone Company, with exchanges in St. Ansgar, Iowa, State Center, Iowa, Tama, Iowa, effective January 22, 1947, expiring January 21, 1948.

Lanark Mutual Telephone Company, 120 East Locust Street, Lanark, Illinois; effective January 19, 1947, expiring January 18, 1948.

The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of the applicable determinations, orders and/or regulations cited above. These certificates have been issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Regulations, Part 522.

Signed at New York, New York, this 22d day of January 1947.

ISABEL FERGUSON,
Authorized Representative of the Administrator

[F R. Doc. 47-782; Filed, Jan. 28, 1947; 8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2340]

RAILWAY EXPRESS AGENCY, INC., AND NORTHWEST AIRLINES, INC., NORTHWEST AIR FREIGHT AGREEMENT

NOTICE OF HEARING

In the matter of an agreement filed under section 412 (a) of the act by and between Railway Express Agency, Inc., and Northwest Airlines, Inc., relating to the operation of an air-freight business.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 412 and 1001 of said act, that hearing in the above-entitled proceeding is assigned to be held on February 5, 1947, at 10 a. m. (eastern standard time) in the Foyer of the Auditorium, Commerce Building, Washington, D. C., before Examiner F Merritt Ruhlen.

Dated January 23, 1947, Washington, D. C.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-846; Filed, Jan. 28, 1947; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 8047]

HARDING COLLEGE (WHBQ)

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING OF STATED ISSUES

In re application of Harding College (WHBQ), Memphis, Tennessee, Docket No. 8047, File No. B3-P-5405; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 9th day of January 1947;

The Commission having under consideration the above-entitled application requesting a construction permit to change the operating facilities of Station WHBQ from 1400 kc, with 250 w power, unlimited time to 560 kc, with 5 kw power day and 1 kw night, unlimited time, employing a directional antenna day and night;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hear-

ing in a consolidated proceeding with the application of Harold L. Sudbury (File No. B3–P–4537) licensee of Station KLCN, Blytheville, Arkansas, requesting a construction permit to change the operating facilities of Station KLCN from 900 kc with 1 kw power, daytime only to 570 kc, with 1 kw power day, 500 w power night, unlimited time, employing a directional antenna at night, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders to construct and operate station WHBQ as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of station WHBQ as proposed and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of station WHBQ as proposed would involve objectionable interference with station KLZ, Denver, Colorado, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of station WHBQ as proposed would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of station WHBQ as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

It is further ordered, That KLZ Broadcasting Company, licensee of Station KLZ, Denver, Colorado, be, and it is hereby, made a party to this proceeding.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47–818; Filed, Jan. 28, 1947; 8:45 a. m.]

[Docket Nos. 7170, 7389, 7766, 7955, 7956, 8045]

HARMCO, INC. ET AL.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Harmco, Inc. (KROY), Sacramento, California, Docket No. 7170, File No. B5–P–4253; Alvin E. Nelson, Inc., San Francisco, California, Docket No. 7389, File No. B5–P–4467; C. Thomas Patten, Oakland, California, Docket No. 7766, File No. B5–P–4876; Palo Alto Radio Station, Incorporated (KYA), San Francisco, California, Docket No. 7955, File No. B5–P–4452; Pittsburg Broadcasting Company, Pittsburg, California, Docket No. 7956, File No. B5–P–5356; Edmund Scott, Gordon D. France, Hugh H. Smith and Merwyn F. Planting, d/b as San Mateo County Broadcasters (KVSM) San Mateo, California, Docket No. 8045, File No. B5–P–5536; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 9th day of January 1947;

The Commission having under consideration a petition filed on December 18, 1946, by Edmund Scott, Gordon D. France, Hugh H. Smith and Merwyn F. Planting, d/b as San Mateo County Broadcasters, requesting that its above entitled application (File No. B5–P–5536) for a construction permit to change frequency of Station KVSM, at San Mateo, California, from 1050 kc to 1260 kc, increase power from 250 watts to 1 kw night—5 kw day and to increase operating hours from daytime only to unlimited time, be designated for hearing in the consolidated proceeding involving the other above entitled applications; and

It appearing, That the Commission on November 14, 1946, ordered the above entitled applications of Harmco, Inc., requesting 1060 kc, 5 kw power, unlimited time with directional antenna at night, Alvin E. Nelson, Inc., requesting 1030 kc, 50 kw power, unlimited time with directional antenna, C. Thomas Patten, requesting 1000 kc, 10 kw power, daytime only, Palo Alto Radio Station, Incorporated, requesting 1060 kc, 50 kw power, unlimited time, and Pittsburg Broadcasting Company, requesting 990 kc, 1 kw power, unlimited time using directional antenna at night, to be heard in a consolidated proceeding; and that a hearing on the said applications is currently set for January 20, 1947, at Washington, D. C., and

It further appearing, that the said petitioner, has heretofore, on November 27, 1946, been made a party intervenor in the aforesaid consolidated proceeding because of engineering conflicts with the present operation of Station KVSM on 1050 kc; that petitioner's aforesaid application for 1260 kc is contingent on the grant of the aforesaid application of Palo Alto Radio Station, Incorporated (KYA), and that the public interest would be served by designating petitioner's said application for hearing in the aforesaid consolidated proceeding;

It is ordered, That the said petition be, and it is hereby, granted and that, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application of Edmund Scott, Gordon D. France, Hugh H. Smith and Merwyn F. Planting, d/b as San Mateo County Broadcasters, be, and it is hereby, designated for hearing in the above consolidated proceeding upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant partnership and the partners to construct and operate station KVSM as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of station KVSM as proposed and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of station KVSM as proposed would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of station KVSM as proposed would involve objectionable interference with the services proposed in the pending application of San Fernando Valley Broadcasting Company (File No. B5–P–4657) or in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of station KVSM as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if any, of the applications in this consolidated proceeding should be granted.

It is further ordered, That the orders of the Commission dated January 30 and February 13, 1946, designating for hearing the above entitled applications of Harmco, Inc., and Alvin E. Nelson, Inc., and the several orders dated November 14, 1946, designating for hearing the above entitled applications of Palo Alto Radio Station, Incorporated, C. Thomas Patten and Pittsburg Broadcasting Company be, and they are hereby, amended to include the said application of San Mateo County Broadcasters (KVSM)

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47–819; Filed, Jan. 23, 1947; 8:45 a. m.]

[Docket Nos. 6900, 8003, 8053]

TIMES PUBLISHING CO. ET AL.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Times Publishing Company, Erie, Pennsylvania, Docket No. 6900, File No. B2–P–3773; Thomas Phillips, Jr., William M. Schuster, Conrad Elfenbein, Francis Schuster and Sylvia Galinsky, a partnership, d/b as Erie Broadcasting Company, Erie Pennsylvania, Docket No. 8003, File No. B2–P–5469; Community Broadcasting Company, Erie, Pennsylvania, Docket No.

8053, File No. B2–P–5562; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 16th day of January 1947;

The Commission having under consideration the above-entitled application of Community Broadcasting Company, requesting a construction permit for a new standard broadcast station to operate on 1400 kc. with 250 w power, unlimited time, at Erie, Pennsylvania; and

It appearing, that the Commission, on December 17, 1946, designated for hearing in a consolidated proceeding the applications of Times Publishing Company (File No. B2–P–3773; Docket No. 6900) and Thomas Phillips, Jr., William M. Schuster, Conrad Elfenbein, Francis Schuster, and Sylvia Galinsky, a partnership, d/b as Erie Broadcasting Company (File No. B2–P–5469; Docket No. 8009), requesting a construction permit for a new standard broadcast station to operate on 1400 kc, with 250 w power, unlimited time, at Erie, Pennsylvania;

It is ordered, That pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application of Community Broadcasting Company be, and it is hereby, designated for hearing in the above consolidated proceeding, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders, to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain primary service from the operation of the proposed station and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if any, of the applications in this consolidated proceeding should be granted.

It is further ordered, That the orders of the Commission dated December 17, 1946, designating for hearing the said applications of Times Publishing Company and Thomas Phillips, Jr., William M. Schuster, Conrad Elfenbein, Francis Schuster, and Sylvia Galinsky, a partnership, d/b as Erie Broadcasting Company, be, and they are hereby, amended to include the said application of Community Broadcasting Company.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47–820; Filed, Jan. 28, 1947; 8:46 a. m.]

[Docket No. 8052]

MIDLAND NATIONAL LIFE INSURANCE CO. (KWAT)

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re application of Midland National Life Insurance Co. (KWAT) Watertown, South Dakota, Docket No. 8052, File No. B4–P–5535; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 16th day of January 1947;

The Commission having under consideration the above-entitled application requesting a construction permit to change the operating assignment of existing station KWAT, Watertown, South Dakota, from 1240 kc, with 250 w power, unlimited time, to 950 kc, with 1 kw power, to change transmitter site, install new transmitter, and install directional antenna for night use;

It is ordered, That pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby designated for hearing in a consolidated proceeding with the application of Tri-State Broadcasting Company (File No. B4–P–5505) requesting a construction permit for a new standard broadcast station to operate on 950 kc, with 5 kw power, employing a directional antenna day and night, unlimited time, at Sioux Falls, South Dakota, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders, to construct and operate station KWAT as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station KWAT as proposed, and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of Station KWAT as proposed would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of Station KWAT as proposed would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of Station KWAT as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47–821; Filed, Jan. 28, 1947; 8:46 a. m.]

[Docket No. 8051]

TRI-STATE BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re application of Tri-State Broadcasting Company, Sioux Falls, South Dakota, Docket No. 8051, File No. B4–P–5505; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 16th day of January 1947;

The Commission having under consideration the above-entitled application requesting a construction permit for a new standard broadcast station to operate on 950 kc, with 5 kw power, employing a directional antenna day and night, unlimited time, at Sioux Falls, South Dakota;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing in a consolidated proceeding with the application of Midland National Life Insurance Company (File No. B4–P–5535) requesting a construction permit to change the operating assignment of existing station KWAT, Watertown, South Dakota, from 1240 kc with 250 w power, unlimited time, to 950 kc, with 1 kw power, to change transmitter site, install new transmitter and install directional antenna for night use, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders, to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station, and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47-822; Filed, Jan. 28, 1947; 8:46 a. m.]

[Docket Nos. 8040, 8032, 8031]

TYTEX BROADCASTING CO. ET AL.

CORRECTED ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Willis Jarrel, William S. Reeves, Robert S. Boulter, William D. Lawrence, Tomas G. Pollard, Jr., and Francis Lee Lawrence, a co-partnership, d/b as Tytex Broadcasting Company, Tyler, Texas, Docket No. 8040, File No. B3-P-5540; Blackstone Broadcasting Company, Inc., Tyler, Texas, Docket No. 8032, File No. B3-P-5316; Rose Capitol Broadcasting Company, Tyler, Texas, Docket No. 8031, File No. B3-P-4975; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 31st day of December 1946;

The Commission having under consideration the above-entitled application of Willis Jarrel, William S. Reeves, Robert S. Boulter, William D. Lawrence, Tomas G. Pollard, Jr., and Francis Lee Lawrence, a co-partnership, d/b as Tytex Broadcasting Company, Tyler, Texas, requesting a construction permit for a new standard broadcast station to operate on the frequency 940 kc, 250 watts power, daytime only, at Tyler, Texas; and

It appearing, that the Commission on December 19, 1946, designated for hearing in a consolidated proceeding the applications of Blackstone Broadcasting Company, Inc., (File No. B3-P-5316, Docket No. 8032) and Rose Capitol Broadcasting Company (File No. B3-P-4975, Docket No. 8031) each requesting a construction permit for a new standard broadcast station to operate on 940 kc, 250 watts, daytime only, at Tyler, Texas;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application of Willis Jarrel, William S. Reeves, Robert S. Boulter, William D. Lawrence, Tomas G. Pollard, Jr., and Francis Lee Lawrence, a co-partnership, d/b as Tytex Broadcasting Company, Tyler, Texas, be and it is hereby, designated for hearing in the above consolidated proceeding at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant partnership and the partners to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain primary service from the operation of the proposed station and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if any, of the applications in this consolidated proceeding should be granted.

It is further ordered, That, the order of the Commission dated December 19, 1946, designating the applications of Blackstone Broadcasting Company, Inc., and Rose Capitol Broadcasting Company for hearing in a consolidated proceeding be, and it is hereby, amended to include the application of Willis Jarrel, William S. Reeves, Robert S. Boulter, William D. Lawrence, Tomas G. Pollard, Jr., and Francis Lee Lawrence, a co-partnership, d/b as Tytex Broadcasting Company.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47—823; Filed, Jan. 28, 1947; 8:47 a. m.]

[Docket Nos. 7559, 7560, 7562]

AMARILLO BROADCASTING CORP. (KFDA) ET AL.

ORDER AMENDING ISSUES

In re applications of Amarillo Broadcasting Corporation (KFDA) Amarillo, Texas, Docket No. 7559, File No. B3-P-4353; S. H. Patterson, Topeka, Kansas, Docket No. 7560, File No. B4-P-4389; S. H. Patterson (KVAK), Atchison, Kansas, Docket No. 7562, File No. B4-P-4317; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 30th day of December 1946;

The Commission having under consideration a petition and supplemental petition filed August 13, 1946, and October 17, 1946, respectively, by S. H. Patterson, requesting that the Commission reconsider his two above-entitled applications, sever them from the proceeding in which they are consolidated with the above-entitled application of Amarillo Broadcasting Corporation, and grant both applications without further hearing; and

It appearing, that petitioner's above-entitled applications are mutually contingent requests for the following facilities:

(1) Docket No. 7560, for a construction permit for a new standard broadcast station at Topeka, Kansas, to operate on the frequency 1440 kc, with 5 kw power, unlimited time, using directional antenna day and night; and

(2) Docket No. 7562, for a construction permit to change the frequency of Station KVAK at Atchison, Kansas, from 1450 kc to 1200 kc, increase power from 250 watts to 1 kw, and change hours of operation from unlimited time to daytime only; and

It further appearing, that the said petitions do not sufficiently meet the several issues heretofore defined for the hearing upon petitioner's said applications, particularly issue numbered "2" in the matter of the application for change of facilities for Station KVAK at Atchison, Kansas (Docket No. 7562)

It is ordered, That, pursuant to § 1.386 of the Commission's rules and regulations, the said petitions be, and they are hereby, denied.

It is further ordered, That the said applications of S. H. Patterson, in addition to being heard upon the issues heretofore defined in the several orders of the Commission dated May 2, 1946, designating the said applications for hearing, also be heard upon the following issue:

To determine whether a grant of the several applications of S. H. Patterson would result in a fair; efficient and equitable distribution of radio broadcast service, among the communities concerned, pursuant to section 307 (b) of the Communications Act of 1934, as amended.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 47-824; Filed, Jan. 23, 1947; 8:47 a. m.]

CLASS B FM BROADCAST STATIONS IN ATLANTA AND GRIFFIN, GA., AREAS

CHANGES IN TENTATIVE PLAN OF SEPTEMBER 3, 1946

JANUARY 16, 1947.

On January 16, 1947, the Commission adopted the following changes in the Tentative FM Allocation Plan of September 3, 1946:

General area	Channels	
	Delete	Add
Atlanta, Ga.		224, 231
Griffin, Ga.	224	

Channel 231 was previously not allocated in the Atlanta, Ga. area. Channel 224 is one of the two Class B channels (the other being Channel 222) which had been allocated to Griffin, Ga. The Commission has not received any applications for FM stations for Griffin, Ga. Whereas Atlanta is not eligible for Class A channels, Griffin and its surrounding vicinity, is eligible for at least 10 Class A channels. Since a Class A station will adequately serve a city of the size of Griffin, the Commission is of the opinion that re-allocation of Channel 224 from Griffin to Atlanta will result in a more complete utilization of FM facilities.

The Commission's Allocation Plan of September 3, 1946 indicates that five class B FM channels are available for assignment to the Atlanta, Ga. area, one of which is to be reserved until July 1, 1947 under § 3.204 (c) of the Commission's rules. One of these channels has been assigned to the Constitution Publishing Company. At the present time there are five applications pending for the three channels available for immediate assignment. The five applications have been designated for consolidated hearing to begin on April 7, 1947 in Atlanta, Ga.

By the Commission's action in alloeating two additional channels to Atlanta, a comparative consideration of the five pending Atlanta applications will not be necessary since there will be five Class B channels available for immediate assignment. If the situation remains unchanged for the next thirty days, the Commission will then consider on an individual basis the five pending Atlanta applications for Class B FM stations.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-825; Filed, Jan. 28, 1947; 8:47 a. m.]

OFFICE OF TEMPORARY CONTROLS

Civilian Production Administration

[C-472]

WILLARD F. HESS

CONSENT ORDER

Willard F Hess of Wenonah Orchards, Naches, Washington, is charged by the Civilian Production Administration, by Charging Letter dated December 3, 1946, with having failed to observe the restrictions imposed upon him in an authorization he obtained from the Department of Agriculture for the United States, for the construction of a farm dwelling, which authorization was contained on CPA Form #4386, under Project Serial No. 91-089-30. Specifically, Willard F. Hess failed to observe the cost limitation of $9,750.00, and he failed to eliminate the garage from the premises as required by the authorization. His failure to observe these restrictions constituted a violation of Paragraph (i) of CPA Order #VHP-1, dated March 26, 1946. Willard F. Hess admits these violations as charged, does not desire to contest the charge and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Willard F. Hess, the Regional Compliance Director and the Regional Attorney, and upon the approval of the Compliance Commission, *It is hereby ordered,* That:

(a) The authorization contained on CPA Form 4386, dated June 14, 1946, Project Serial #91-089-30, which authorizes the construction of a farm dwelling at Naches, Washington, and assigned an HH rating to Willard F. Hess for said construction, is hereby revoked and withdrawn.

(b) Neither Willard F Hess, nor his successors or assigns, nor any other person shall do any further construction on the farm dwelling at Naches, Washington, including putting up, completing, or altering the structure, unless hereafter specifically authorized by the Civilian Production Administration or other appropriate governmental agency.

(c) Willard F. Hess shall refer to this order in any application or appeal which he may file with the Civilian Production Administration, or any other appropriate governmental agency, for authorization to carry on construction.

(d) Nothing contained in this order shall be deemed to relieve Willard F Hess, his successors or assigns, from any restriction, prohibition, or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

(e) This order shall take effect on the date of issuance.

Issued this 27th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-891; Filed, Jan. 27, 1947; 4:25 p. m.]

[C-473]

KASDEN FUEL CO.

CONSENT ORDER

Louis J. Kasden and Harry E. Kasden, d/b/a Kasden Fuel Company, were authorized by the Civilian Production Administration June 4, 1946, on application Form CPA-4423, Case No. 1-4-619, to construct a garage size 30' x 100', of cinder blocks costing $1,500, at Ansonia, Connecticut. On or about July 22, Harry E. Kasden and Louis J. Kasden, d/b/a Kasden Fuel Company, began construction under this authorization of a building with dimensions 40' by approximately 135' and with an addition approximately 13' x 32' in size. The estimated cost of the construction which was actually started was between $6,000 and $7,000. The construction of a building of a larger size and at a greater cost than authorized constituted a violation of paragraph (i) of Order VHP-1. Louis J. Kasden and Harry E. Kasden admit the violation as charged and consent to the issuance of this order.

Wherefore, upon the agreement and consent of Louis J. Kasden and Harry E. Kasden, the Regional Compliance Director, and the Regional Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered,* That:

(a) The authorization to Kasden Fuel Company granted by the Civilian Production Administration June 4, 1946, on Form CPA-4423, Case No. 1-4-619, is hereby revoked.

(b) Neither Louis J. Kasden or Harry E. Kasden, their successors or assigns, nor any other person shall do any construction on the garage or other building started at 522 Main Street, Ansonia, Connecticut, unless hereafter specifically authorized in writing by the Civilian Production Administration.

(c) Louis J. Kasden and Harry E. Kasden shall refer to this order in any application or appeal which they may file with the Civilian Production Administration for authorization to carry on construction.

(d) Nothing contained in this order shall be deemed to relieve Louis J. Kasden and Harry E. Kasden, their successors or assigns, from any restriction, prohibition, or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

(e) This order shall take effect on the date of issuance.

Issued this 27th day of January 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-890; Filed, Jan. 27, 1947; 4:26 p. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 4-61-5]

WILLIAMS AND KINGSOLVER

ORDER SUSPENDING ACCOUNTANT FROM PRACTICE BEFORE COMMISSION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 20th day of January A. D. 1947.

In the matter of Williams & Kingsolver, 420 Exchange National Bank Building, Colorado Springs, Colorado, File No. 4-61-5.

A proceeding having been instituted by the Commission pursuant to Rule II (e) of its rules of practice to determine whether respondent Williams & Kingsolver, a firm of certified public accountants of Colorado Springs, Colorado, or any of its members, should be disqualified from or denied, temporarily or permanently, the privilege of appearing or practicing before the Commission;

A hearing having been held after appropriate notice, and respondent having filed an answer consenting to entry of an order temporarily or permanently disqualifying respondent from or denying it the privilege of practicing as an accountant before the Commission; and

The Commission being fully advised and having this day issued its findings and opinion herein;

On the basis of said findings and opinion and said answer of respondent and pursuant to said rule,

It is ordered, That Williams & Kingsolver, a partnership, and Oliver M. Williams, an individual member of said firm, be, and each of them hereby is, denied, for a period of one year from the date hereof, the privilege of appearing or practicing in any way before this Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-827; Filed, Jan. 28, 1947; 8:48 a. m.]

[File No. 7-970]

ALUMINUM CO. OF AMERICA

DETERMINATION OF EQUIVALENT SECURITY

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 21st day of January A. D. 1947.

Continuation of unlisted trading privileges on the New York Curb Exchange in the 6% Cumulative Preferred Stock, par value $100, of Aluminum Company of America having been permitted by action of this Commission pursuant to section 12 (f) (1) of the Securities Exchange Act of 1934;

The Commission having been advised that changes will be effected in such security other than those specied in paragraph (a) of Rule X-12F-2, resulting from the exchange of such security for the $3.75 Cumulative Preferred Stock, par value $100, of Aluminum Company of America, and the Exchange having filed with the Commission an application for a determination that the security after such changes will be substantially equivalent to the security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to sections 12 (f) and 23 (a) of the Securities Exchange Act of 1934 and Rule X-12F-2 (b) promulgated thereunder, that the $3.75 Cumulative Preferred Stock of Aluminum Company of America will be substantially equivalent to the 6% Cumulative Preferred Stock of that company heretofore admitted to unlisted trading privileges on the applicant exchange.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-828; Filed, Jan. 28, 1947; 8:49 a. m.]

[File No. 70-1377]

NEW YORK STATE ELECTRIC & GAS CORP. AND GENERAL PUBLIC UTILITIES CORP.

SUPPLEMENTAL ORDER PERMITTING AMENDMENT TO JOINT APPLICATIONS—DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 22d day of January 1947.

General Public Utilities Corporation, a registered holding company, and its subsidiary, New York State Electric & Gas Corporation ("New York State") having filed joint applications-declarations, and amendments thereto, pursuant to sections 6 (a) 6 (b) 7, 12 (b) and 12 (c) of the Public Utility Holding Company Act of 1935, in which it was proposed, among other things, that New York State issue and sell, pursuant to the competitive bidding provisions of Rule U-50, $13,000,000 principal amount of its first mortgage bonds due 1977 and thereafter 150,000 shares of its cumulative preferred stock; and

The Commission having, by order dated January 13, 1947, granted said applications and permitted said declarations to become effective subject to the condition, among others, that the proposed issuance and sale of securities not be consummated until the results of the competitive bidding pursuant to Rule U-50 have been made a matter of record in the proceeding and a further order has been entered by the Commission in the light of the record so completed, jurisdiction being reserved for this purpose; and

New York State having filed a further amendment to its applications-declarations, as amended, in which it is stated that in accordance with the permission granted by the said order of the Commission dated January 13, 1947, it has offered its first mortgage bonds for sale pursuant to the competitive bidding requirements of Rule U-50 and has received the following bids:

	Price to company	Interest rate	Cost to company
	Percent	*Percent*	*Percent*
Halsey, Stuart & Co., Inc..	102.259	2¾	2.64
Blyth & Co., Inc.	102.13	2¾	2.6497
Smith, Barney & Co.			
The First Boston Corp.	101.7812	2¾	2.6334
Glore, Forgan & Co.			
Harriman Ripley & Co., Inc.	101.65	2¾	2.6097

The amendment further stating that New York State has accepted the bid of Halsey, Stuart & Co., Inc., for the first mortgage bonds as set out above and that the bonds will be offered for sale to the public at a price of 102.875%, resulting in an underwriters' spread of .606%, and

The Commission having examined said amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to such matters:

It is ordered, That the jurisdiction heretofore reserved with respect to the results of competitive bidding for the first mortgage bonds be, and the same hereby is, released, and that the amendment filed on January 22, 1947 to the joint applications declarations be, and hereby is, granted and permitted to become effective, subject, however, to the terms and conditions prescribed in Rule U-24 and to the other conditions and reservations of jurisdiction set forth in our order dated January 13, 1947.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-830; Filed, Jan. 28, 1947; 8:49 a. m.]

[File Nos. 70-1422, 70-1423]

STANDARD GAS AND ELECTRIC CO. AND OKLAHOMA GAS AND ELECTRIC CO.

ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 22d day of January 1947.

Standard Gas and Electric Company ("Standard"), a registered holding company, and its public utility subsidiary, Oklahoma Gas and Electric Company ("Oklahoma Gas") having filed separate applications and declarations, and amendments thereto, in which sections 11 (b) 12 (d) 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules U-24, U-44 and U-50 promulgated thereunder are designated as applicable with respect to the following transactions:

Standard proposes to sell all of the 750,000 shares (being all the presently issued and outstanding shares of common stock, of the par value of $20 per share) of Oklahoma Gas. The sale of such stock is to be made at competitive bidding pursuant to Rule U-50. Simultaneously with such sale, Oklahoma Gas proposes to issue and sell an additional issue of 140,000 shares of its common stock, also at competitive bidding pursuant to Rule U-50.

Standard will apply the proceeds of the aforesaid sale of 750,000 shares of common stock of Oklahoma Gas towards the payment of interest and principal on its promissory notes dated April 10, 1946 issued to various banks under the Bank Loan Agreement of Standard dated December 21, 1945, as supplemental agreements dated February 15, 1946 and April 5, 1946 (copies of which are on file with this Commission in File No. 70-1211).

Oklahoma Gas proposes to apply $1,470,000 of the net proceeds of the sale of the additional issue of 140,000 shares

of its common stock to the prepayment, without premium, of an equal principal amount of its outstanding Serial Notes bearing interest at the rate of 1⅞% per annum and maturing in fourteen equal semi-annual installments; such prepayments are to be applied ratably to all the outstanding Serial Notes, thereby reducing each semi-annual installment from $605,000 to $500,000. Oklahoma Gas proposes to use the balance of the proceeds of the sale of said 140,000 shares together with additional funds generated from operations to provide funds for the acquisition and construction during 1947 of additions and betterments to its physical properties.

Both Standard and Oklahoma Gas have requested that the ten-day notice period for inviting bids as provided for by subsection (b) of Rule U-50 be shortened to six days so as to minimize the possibility of the postponement of the opening of bids due to a change of market conditions between the time the day of opening of bids is designated and such day. In this connection, the applicants have not designated a day certain on which bids are to be opened, but they propose to advise this Commission by telegram on the day preceding the publication of a public invitation for bids to purchase the common stock of Oklahoma Gas of their intention so to do and the proposed date of opening of such bids.

Standard has also requested that this Commission find that the sale of the 750,000 shares of common stock of Oklahoma Gas by Standard is necessary or appropriate to effectuate the provisions of section 11 (b) of the act and make the specifications and itemizations necessary in order that the provisions of sections 371 (b), 371 (f) and 1808 (f) of the Internal Revenue Code shall be applicable.

A declaration of Oklahoma Gas, dated October 1, 1943, as subsequently amended (filed with this Commission in File No. 70-800) which became effective by order of this Commission dated October 28, 1943, included an undertaking of Oklahoma Gas with respect to the declaration or payment of dividends on its capital stock of any class during a ten-year period beginning September 1, 1943. (Said undertaking is fully set forth in this Commission's finding and opinion accompanying said order dated October 28, 1943, Holding Company Act Release No. 4649.) Oklahoma Gas proposes to rescind and nullify said undertaking and has requested an order permitting it to do so.

Said applications and declarations, as amended, having been duly filed and notice of such filings having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act and the Commission not having received a request for hearing with respect to said applications and declarations, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said applications and declarations, as amended, that the requirements of the applicable provisions of the act and rules promulgated thereunder are satisfied, that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said applications and declarations, as amended, be granted and permitted to become effective;

It is hereby ordered, That pursuant to Rule U-23 said applications and declarations, as amended, be, and the same are hereby, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24, and subject to the further condition that the proposed sale of shares of common stock of Oklahoma Gas by Standard and Oklahoma Gas shall not be consummated until the results of competitive bidding pursuant to Rule U-50 have been made a matter of record herein and a further order shall have been entered with respect thereto, which order may contain such further terms and conditions as may then be deemed appropriate, for which purpose jurisdiction is hereby reserved.

It is further ordered, That the ten-day period for inviting bids as provided for in Rule U-50 be, and the same hereby is, shortened to a period of six days.

It is further ordered and the Commission finds, That the proposed sale by Standard of 750,000 shares of the common stock of a par value of $20 per share of Oklahoma Gas is in accordance with and in obedience to aforesaid order of this Commission dated August 8, 1941, which order found that the divestment by Standard of its holdings of the shares of common stock of Oklahoma Gas was necessary and appropriate for the purpose of bringing about compliance by Standard with section 11 (b) (1) of the act, and the said 750,000 shares of common stock of Oklahoma Gas are hereby specified and itemized as being included in the holdings named in aforesaid order dated August 8, 1941.

It is further ordered and the Commission finds, That Oklahoma Gas be, and hereby is, permitted to rescind and nullify its aforementioned undertaking with respect to the declaration or payment of dividends on its capital stock of any class for a ten-year period beginning September 1, 1943.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-826; Filed, Jan. 28, 1947; 8:48 a. m.]

[File No. 70-1425]

WASHINGTON RAILWAY AND ELECTRIC CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 22d day of January 1947.

Washington Railway and Electric Company, a registered holding company and a subsidiary of The North American Company, also a registered holding company, has filed an application and declaration pursuant to the applicable provisions of the Public Utility Holding Company Act of 1935 and the general rules and regulations promulgated thereunder, regarding the following proposals:

Washington Railway and Electric Company proposes to issue and to sell to certain banks $2,800,000 principal amount of Bank Loan Notes, payable on or before two years from their date, with interest thereon at the rate of 1¾% per annum. Such Bank Loan Notes are proposed to be issued to certain banking institutions now holding declarant's presently outstanding Bank Loan Notes aggregating $3,500,000, and maturing January 31, 1947, and said banks represent that such Notes are proposed to be held for investment and not for resale. It is proposed that the Bank Loan Notes be subject to the provisions of a Bank Loan Agreement dated December 20, 1946 which provides, among other things, for the right of prepayment of such Bank Loan Notes, without premium, upon the terms and conditions set forth therein. Declarant proposes to apply the proceeds of such issue, together with $700,000 of treasury funds, to the payment and retirement of all its presently outstanding Bank Loan Notes maturing January 31, 1947, in the aggregate principal amount of $3,500,000 and issued under a Bank Loan Agreement dated December 6, 1944.

The application-declaration having been filed on December 24, 1946, and notice of filing having been duly given in the manner and form prescribed by Rule-23 under said act and the Commission not having received a request for hearing with respect to said application or declaration within the period specified in such notice, or otherwise, and not having ordered a hearing thereon; and

Washington Railway and Electric Company having requested that the Commission issue its order on or before January 23, 1947; and

The Commission finding that the requirements of sections 6 (a) 7, and 12 (c) of the act and Rules U-42 and U-50 thereunder are satisfied, that no adverse findings are necessary thereunder, and that action upon said application-declaration should be accelerated, and the Commission deeming it appropriate in the public interest and in the interest of investors to grant said application and permit said declaration to become effective:

It is hereby ordered pursuant to said Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed in Rule U-24 that said application be and the same is hereby granted and that the declaration be and the same is hereby permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-829; Filed, Jan. 28, 1947; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 7997]

DR. CARL STILL AND MRS. HANNA STILL

In re: Bank account and stock owned by Dr. Carl Still and Mrs. Hanna Still, F-28-1891-A-1, F-28-1891-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Dr. Carl Still and Mrs. Hanna Still, whose last known address is Bismarck Platz 24, Recklinghausen Westphalen, Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. That certain debt or other obligation owing to Dr. Carl Still and Mrs. Hanna Still, by Bank of The Manhattan Company, 40 Wall Street, New York, New York, arising out of a checking account, entitled Dr. Carl Still & Mrs. Hanna Still, and any and all rights to demand, enforce and collect the same, and

b. Those certain shares of stock described in Exhibit A, attached hereto and by reference made a part hereof, registered in the name of L. D. Pickering & Co., and presently in the custody of Bank of The Manhattan Company, 40 Wall Street; New York, New York, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Dr. Carl Still and Mrs. Hanna Still, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925, 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F R. 11981)

Executed at Washington, D. C., on January 15, 1947:

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

EXHIBIT A

Name and address of issuer	State of incorporation	Certificate No.	Number of shares	Par value	Type of stock
The Atchison, Topeka & Santa Fe Ry. Co., 80 East Jackson Blvd., Chicago, Ill.	Kansas	218742	100	$100	Common.
		218747	100	100	Do.
The Chesapeake & Ohio Ry. Co., Richmond, Va.	Virginia and West Virginia.	C22620	100	25	Do.
		C22621	100	25	Do.
		C22622	100	25	Do.
		C22623	100	25	Do.
		C22624	100	25	Do.
		C22625	100	25	Do.
The New York Central RR. Co., 230 Park Ave., New York Central Bldg., New York, N. Y.	New York, Pennsylvania, Ohio, Illinois, Indiana, Michigan.	L-1243	25	No	Capital.
		H-7121	100	No	Do.
The Pittston Co., 77 River St., Hoboken, N. J.	Delaware	TC043370	15	1	Common.
Southern Pacific Co., 65 Market St., San Francisco, Calif.	Kentucky	NC-732	50	No	Do.
		NA 2426	100	No	Do.
		NA 2427	100	No	Do.
		NA 2428	100	No	Do.

[F. R. Doc. 47-774; Filed, Jan. 24, 1947; 8:49 a. m.]

[Vesting Order 8016]

IDA BURKARD

In re: Stocks and bonds owned by Ida Burkard, F-28-827-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ida Burkard, whose last known address is Rheinstrasse 32, Wiesbaden, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows:

a. Three (3) shares of no par value common capital stock of Steinway & Sons, 109 West 57th Street, New York, New York, a corporation organized under the laws of the State of New York, evidenced by certificates numbered 212 for two (2) shares and A-267 for one (1) share, registered in the name of Ida Burkard, together with all declared and unpaid dividends thereon, and

b. Those certain obligations, matured or unmatured, of Steinway & Sons, 109 West 57th Street, New York, New York, evidenced by two (2) Steinway & Sons 5% Debenture Bonds, due 1966, each of $100 face value, bearing the numbers C12 and C13, registered in the name of Ida Burkard, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925, 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 16, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-806; Filed, Jan. 27, 1947; 8:56 a. m.]

[Vesting Order 8021]

CHIHAKU KATAGIRI

In re: Debt owing to Chihaku Katagiri, also known as Chibaku Katagiri and as Chihiro Katagiri.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Chihaku Katagiri, also known as Chibaku Katagiri and as Chihiro Katagiri, whose last known address is Tokyo, Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the property described as follows: That certain debt or other obligation owing to Chihaku Katagiri, also known as Chibaku Katagiri and as Chihiro Katagiri, by Katagiri & Co. Incorporated, 224 East 59th Street, New York, New York, in the amount of $3,096.68, as of January 11, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925, 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942; 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 16, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F. R. Doc. 47-808; Filed, Jan. 27, 1947; 8:56 a. m.]

[Vesting Order 8018]

JOHANNA GRIEPENKERL

In re: Stock and bonds owned by the personal representatives, heirs, next of kin, legatees and distributees of Johanna Griepenkerl, deceased, F-28-22466-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Johanna Griepenkerl, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany),

2. That the property described as follows:

a. Five hundred thirty-five (535) shares of no par value common capital stock of Steinway & Sons, 109 West 57th Street, New York, New York, a corporation organized under the laws of the State of New York, evidenced by certificate number A-846 and registered in the name of Dr. Alfred Jürgens, Ex. Est. Johanna Griepenkerl, together with all declared and unpaid dividends thereon, and

b. Those certain obligations, matured or unmatured, of Steinway & Sons, 109 West 57th Street, New York, New York, evidenced by one (1) Steinway & Sons 5% Debenture Bond, due 1966, of $500 face value, bearing number D 49, and sixteen (16) Steinway & Sons 5% Debenture Bonds, due 1966, each of $1,000 face value, bearing the numbers M 151 and M 369 to M 383 inclusive, registered in the name of Dr. Alfred Jürgens, Ex. Estate of Johanna Griepenkerl, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Johanna Griepenkerl, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925, 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F R. 11981)

Executed at Washington, D. C., on January 16, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-807; Filed, Jan. 27, 1947; 8:56 a. m.]

[Vesting Order 8026]

ANNA LOUISE TROWITZ

In re: Debt owing to and stock and bonds owned by Anna Louise Trowitz, F-28-8062-A-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Louise Trowitz, whose last known address is Agnesstrasse 24, Hamburg 39, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows:

a. That certain debt or other obligation owing to Anna Louise Trowitz, by St. Louis Union Trust Company, 323 North Broadway, St. Louis 2, Missouri, in the amount of $1,148.23, as of December 31, 1945, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

b. Ten (10) shares of $100.00 par value common capital stock of The Atchison, Topeka & Santa Fe Railway Company, Topeka, Kansas, a corporation organized under the laws of the State of Kansas, evidenced by certificate number X308839, registered in the name of Anna Louise Trowitz, and presently in the custody of St. Louis Union Trust Company, 323 North Broadway, St. Louis 2, Missouri, together with all declared and unpaid dividends thereon,

c. Twenty-eight (28) shares of no par value preferred capital stock of Great Northern Railway Company, Great Northern Building, St. Paul, Minnesota, a corporation organized under the laws of the State of Minnesota, evidenced by certificate number 044091, registered in the name of Anna Louise Trowitz, and presently in the custody of St. Louis Union Trust Company, 323 North Broadway, St. Louis 2, Missouri, together with all declared and unpaid dividends thereon,

d. Twenty (20) shares of $0.50 par value class A capital stock of St. Louis Public Service Company, 3869 Park Avenue, St. Louis 10, Missouri, a corporation organized under the laws of the State of Missouri, evidenced by certificate number TA01201, registered in the name of Mrs. Anna Louise Trowitz, and presently in the custody of St. Louis Union Trust Company, 323 North Broadway, St. Louis 2, Missouri, together with all declared and unpaid dividends thereon,

e. Fifty (50) shares of $50.00 par value capital stock of The Pennsylvania Railroad Company, Broad Street Station Building, 1617 Pennsylvania Boulevard, Philadelphia 4, Pennsylvania, a corporation organized under the laws of the State of Pennsylvania, evidenced by certificates numbered P-336423 for 21 shares, P-671760 for 15 shares and N-581544 for 14 shares, registered in the name of Anna Louise Trowitz, and presently in the custody of The National City Bank of New York, 55 Wall Street, New York, New York, in an account entitled Export Kreditbank A/G, Berlin, Germany, sub-account Customers Account for Custody, together with all declared and unpaid dividends thereon.

f. One (1) 4% Chicago, Rock Island & Pacific Railway Company First and Refunding Mortgage Bond, of $4,000.00 face value, bearing the number CB 1238, registered in the name of Mrs. Anna Louise Trowitz, and presently in the custody of The National City Bank of New York, 55 Wall Street, New York, New York, together with any and all rights thereunder and thereto, and

g. Three (3) United States of America Certificates of Indebtedness, Series D, of $1,000.00 face value, bearing the numbers 20270, 20271 and 20272, registered in the name of bearer, presently in the custody of St. Louis Union Trust Company, 323 North Broadway, St. Louis 2, Missouri, together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925, 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp, E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 16, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-809; Filed, Jan. 27, 1947; 8:56 a. m.]

[Vesting Order 7982]

CHARLES GROSSKLAUS

In re: Estate of Charles Grossklaus, deceased. File D-28-3418; E. T. sec. 9799.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Herta Grossklaus, Wilhelm Grossklaus and Paul Grossklaus, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $3,149.13 was paid to the Alien Property Custodian by Frank W Mueller, as Executor of the Estate of Charles Grossklaus, deceased;

3. That the said sum of $3,149.13 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Alien Property Custodian by acceptance thereof on November 8, 1945, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 15, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-850; Filed, Jan. 23, 1947; 8:46 a. m.]

[Vesting Order 8003]

GUSTAVE BROMM

In re: Estate of Gustave Bromm, deceased. File No. D-28-10728; E. T. sec. No. 14996.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

That the property described as follows: All right, title, interest and claim of any kind or character whatsoever of John Bromm, in and to the estate of Gustave Bromm, deceased, is property payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

John Bromm, Germany.

That such property is in the process of administration by Augusta Nagel, as Administratrix of the estate of Gustave Bromm, deceased, acting under the judicial supervision of the Surrogate's Court, Bronx County, New York;

And determined that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany),

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administred, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F R. 11931)

Executed at Washington, D. C., on January 16, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-851; Filed, Jan. 23, 1947; 8:46 a. m.]

[Vesting Order CE 357]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN PENNSYLVANIA AND TENNESSEE COURTS

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such person's name, and such measures having been taken;

3. That as a result of such action or proceeding each of said persons obtained or was determined to have the property particularly described in Column 4 of said Exhibit A opposite such person's name;

4. That such property is in the possession or custody of, or under the control of, the person described in Column 5 of said Exhibit A opposite such property;

5. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 6 of said Exhibit A opposite such action or proceeding;

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property in the possession or custody of, or under the control of, the persons described in Column 5 of said Exhibit A in amounts equal to the sums stated in Column 6 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in rules of procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6)

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F R. 11981)

Executed at Washington, D. C., on January 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Property	Column 5 Depositary	Column 6 Sum vested
		Item 1			
Teresa Unger	Austria	Estate of John Heintzel, also known as John Heinzel, deceased, Orphans' Court of Philadelphia County, Pa., No. 2520 of 1944.	$221.18	George Keehfuse, Trustee in Partition, 1311 North 29th St., Philadelphia, Pa.	$10.00
		Item 2			
Katerina Zorka	do	Same	221.19	do	10.00
		Item 3			
Maria Erkinger	do	Same	221.19	do	10.00
		Item 4			
Carolina Heinzel	do	Same	221.19	do	10.00
		Item 5			
Frank (Franz) Tury	do	Same	221.19	do	10.00
		Item 6			
Anna Graf	Austria	Same	221.19	do	10.00
		Item 7			
Guiseppe M. DiMeo	Italy	Estate of Michael S. DiMeo, deceased, in the Register's Court of Bradford County, Pa., No. 8, February Term, 1946.	2,159.36	J. Lloyd Loushay, Clerk of the Orphans' Court of Bradford County, Pa., Depositary.	20.00
		Item 8			
Anton Lang	Hungary	Estate of Anna Lang, deceased, in the Orphans' Court of Philadelphia County, Philadelphia, Pa., No. 467 of 1946.	777.75	Germantown Trust Co., Executor, Germantown and Chelten Aves., Philadelphia, Pa.	10.00
		Item 9			
Mrs. Gizella Schapka Andorne	do	Same	777.75	do	10.00
		Item 10			
Mrs. Millasin Laszlone	do	Same	777.75	do	10.00
		Item 11			
Mrs. Agnes Gluck	do	Same	777.75	do	10.00
		Item 12			
Mrs. Kraul Aureline	Rumania	Same	777.75	do	10.00
		Item 13			
Pia Sodini	Italy	Estate of Fritz H. Sodini, deceased, in Probate Court, Shelby County, Tenn., No. 54202 R. C.	251.87	P. J. J. Hefferman, Administrator, Sterick Bldg., Memphis, Tenn.	7.00
		Item 14			
Lina Riccomini	do	Same	251.87	do	7.00
		Item 15			
Ines Relli	do	Same	251.87	do	7.00
		Item 16			
Enea Sodini	do	Same	251.87	do	7.00
		Item 17			
Duilio Sodini	do	Same	251.87	do	7.00
		Item 18			
Liliana Sodini	do	Same	251.87	do	7.00

[F. R. Doc. 47-854; Filed, Jan. 28, 1947; 8:47 a. m.]

[Vesting Order CE 358]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN NEW YORK COURTS

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such persons's name, and such measures having been taken;

3. That as a result of such action or proceeding each of said persons obtained said Exhibit A opposite such property; particularly described in Column 4 of said Exhibit A opposite such person's name;

4. That such property is in the possession or custody of, or under the control of, the person described in Column 5 of said Exhibit A opposite such property;

5. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 6 of said Exhibit A opposite such action or proceeding;

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property in the possession or custody of, or under the control of, the persons described in Column 5 of said Exhibit A in amounts equal to the sums stated in Column 6 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in Rules of Procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6)

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Property	Column 5 Depositary	Column 6 Sum vested
		Item 1			
Roman Kobzar	Poland	Estate of Katherine Kobzar, deceased, Surrogate's Court, New York, N. Y., Index No. P-2206/1944.	$2,435.47	Treasurer of the City of New York, Municipal Bldg., New York, N. Y.	$25.00
		Item 2			
Dr. Jennie Orlowsky	do	Estate of Bernard Greser, deceased, Surrogate's Court, Kings County, N. Y., Index No. 5094/1943.	1,423.07	do	41.00
		Item 3			
Antonina Kuman	do	Estate of John Kuman, deceased, Surrogate's Court, Richmond County, N. Y., Docket No. A-11/1942.	570.48	do	18.00
		Item 4			
Maryanna Trznadel	do	Same	570.48	do	18.00
		Item 5			
Michael Kuman	do	Same	570.48	do	18.00
		Item 6			
Angiolina Lazzazzara De Vito	Italy	Estate of Anthony De Vito, deceased, Surrogate's Court, Queens County, N. Y., Docket No. 3018/1939.	1,117.23	do	60.00
		Item 7			
Domenico Iannone	do	Estate of Michael Iannone, deceased, Surrogate's Court, Queens County, N. Y., Docket No. 244/1939.	1,725.15	do	32.00
		Item 8			
Teresa Lotito Iannone	do	Same	1,725.16	do	32.00
		Item 9			
Sabatile Apicelli	do	Estate of Gennaro Apicelli, deceased, Surrogate's Court, New York County, N. Y.	134.03	do	15.00
		Item 10			
Pasquale Apicelli	do	Same	134.03	do	15.00
		Item 11			
Carmine Apicelli	do	Same	134.03	do	15.00
		Item 12			
Generosa Apicelli	do	Same	134.04	do	15.00
		Item 13			
Filomena Apicelli	do	Same	134.04	do	15.00
		Item 14			
Nannina Apicelli	do	Same	134.04	do	15.00
		Item 15			
Sarrafina Apicelli	do	Same	134.04	do	15.00
		Item 16			
Caroline Apicelli	do	Same	134.03	do	15.00
		Item 17			
Pio Francesco Zola	do	Estate of Teresa Rogazzi, deceased, Surrogate's Court, Queens County, N. Y., 964/1939.	224.13	do	50.00
		Item 18			
Armando Mattei	do	Same	224.13	do	50.00
		Item 19			
Gaetano Perulli, et al	do	Estate of Giuseppe Perulli, deceased, Surrogate's Court, Queens County, N. Y., Index No. 1870/1944.	334.00	do	73.00

[F. R. Doc. 47-855; Filed, Jan. 28, 1947; 8:47 a. m.]

[Vesting Order 8047]

AUGUST KNACK

In re: Estate of August Knack, deceased. File No. D-28-10481, E. T. sec. 14901.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Franz Knack and John Knack, whose last known addresses are Germany, are residents of Germany and are nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of August Knack, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Peter Paul Knack, 308 East 18th Street, New York, New York, as Administrator, acting under the judicial supervision of the Surrogate's Court, New York County, State of New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 21, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc. 47-853; Filed, Jan. 28, 1947; 8:46 a. m.]

INGERSOLL-RAND CO.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return the following vested property on or after 30 days from the date of the publication hereof, less any authorized deductions:

Claimant	Claim No.	Vesting order No.	Property	Location
Ingersoll-Rand Co., New York, N. Y.	A-280	201 (8 F. R. 625)...	U. S. Letters Patent No. 1,878,905.	Washington, D. C.

Executed at Washington, D. C., on January 24, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc, 47-859; Filed, Jan. 28, 1947; 8:47 a. m.]

[Vesting Order 8042]

KATHARINA GEIBEL

In re: Estate of Katharina Geibel, also known as Katherina Geibel. File D-28-11004; E. T. sec. 15374.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

That the property described as follows: All right, title, interest and claim of any kind or character whatsoever of Mina Hagmaier-Geiger, Anna Hagmaier-Waibel, Fritz Hagmaier, Christian Hagmaier, Fritz Geibel, Daniel Geibel, Johann Geibel, Ida Geibel-Breuner and Mina Geibel, and each of them, in and to the Estate of Katharina Geibel, also known as Katherina Geibel, deceased,

is property payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Mina Hagmaier-Geiger, Germany.
Anna Hagmaier-Waibel, Germany.
Fritz Hagmaier, Germany.
Christian Hagmaier, Germany.
Fritz Geibel, Germany.
Daniel Geibel, Germany.
Johann Geibel, Germany.
Ida Geibel-Breuner, Germany.
Mina Geibel, Germany.

That such property is in the process of administration by Jessie L. French, as administratrix, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Los Angeles,

and determined, that to the extent that such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, (Germany),

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 21, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc. 47-852; Filed, Jan. 28, 1947; 8:46 a. m.]

[Vesting Order CE 359]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN CALIFORNIA, OREGON, COLORADO AND WASHINGTON COURTS

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such person's name, and such measures having been taken;

3. That as a result of such action or proceeding each of said persons obtained or was determined to have the property particularly described in Column 4 of said Exhibit A opposite such person's name;

4. That such property is in the possession or custody of, or under the control of, the person described in Column 5 of said Exhibit A opposite such property;

5. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 6 of said Exhibit A opposite such action or proceeding;

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property in the possession or custody of, or under the control of, the persons de-

scribed in Column 5 of said Exhibit A in amounts equal to the sums stated in Column 6 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in Rules of Procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6)

(40 Stat. 411, 55 Stat. 839, Pub. Law. 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Property	Column 5 Depositary	Column 6 Sum vested
		Item 1			
Marie Josephine Bahurlet	France	Estate of Jean Baptiste Laclerrue, deceased, Superior Court, State of California, in and for the City and County of San Francisco; No. 86033.	$9,023.59	Bank of America National Trust & Savings Association, Humboldt Branch, 725 Market St., San Francisco, Calif., Account No. 19242.	$25.00
		Item 2			
Joseph Petrusich	Yugoslavia	Estate of John Petrusich, deceased, Circuit Court, State of Oregon for the County of Multnomah, Department of Probate No. 59494.	854.09	United States National Bank of Portland, Portland, Oreg.; Account in the name of Joseph Petrusich.	34.00
		Item 3			
Michael Sergakis, Iones Sergakis, Paraskevoula Katsoulaki, Catherine Paravolikaki, Maria Poulina and any other heirs, names unknown, of Emanuel Sergakis, deceased.	Greece	Estate of Emanuel Sergakis, deceased, County Court, Huerfano County, Colo.; No. 709.	14,093.05	Homer F. Bedford, State Treasurer, on deposit for the estate of Emanuel Sergakis, deceased, Denver, Colo.	80.00
		Item 4			
Friedhofsverwaltung Under Kirchenkasse.	Germany	Estate of William Handt, deceased, Superior Court, State of California, in and for the City and County of San Francisco; No. 94469.	1,000.00	The San Francisco Bank, 526 California St., San Francisco, Calif.; Account in the name of Friedhofsverwaltung Under Kirchenkasse, Savings Account No. 771071.	53.00
		Item 5			
Polyanthi Sykas, or her heirs, next of kin and legatees, names unknown.	Greece	Estate of George Macrandrias, deceased, Superior Court, State of California, in and for the City and County of San Francisco; No. 83491.	1,045.22	Phil C. Katz, Administrator, 403 City Hall, San Francisco, Calif.	42.00
		Item 6			
Go Shee	China	Estate of Lowe Dai Kwong, deceased, Superior Court, State of California, in and for the City and County of San Francisco; No. 8455.	823.70	Low Mow Chow, Trustee, c/o Leo C. Dunnell, First National Bank Bldg., Fairfield, Calif.	30.00
		Item 7			
Mr. Schellen	Luxembourg	Estate of John Schellen, deceased, Superior Court, State of Washington, in and for the County of King; No. 81693.	213.83	Willard E. Skeel, Insurance Building, Seattle, Wash., Statutory Agent.	13.00
		Item 8			
Miss Schellen	do	Same	213.83	do	13.00
		Item 9			
Serina Nielsen	Denmark	Estate of Ida G. Nielsen, deceased, Superior Court, State of Washington, King County; Probate No. 78736.	3,551.84	Seattle-First National Bank, Account in the name of "Danish Consul, Seattle, Special Account Danish Heir of Ida G. Nielsen, Serina Nielsen, a National of Denmark", Seattle, Wash.	47.00

[F. R. Doc. 47-856; Filed, Jan. 23, 1947; 8:47 a. m.]

[Vesting Order 7080, Amdt.]

CAMILLO ZIRN

In re: Stock owned by Camillo Zirn, also known as Dr. Camillo Zirn.

Vesting Order 7080, dated July 10, 1946, is hereby amended as follows and not otherwise:

By deleting from Exhibit A, attached thereto and by reference made a part thereof, the certificate number CC-49595, set forth with respect to one (1) share of $25 par value capital stock of Standard Oil Company, 30 Rockefeller Plaza, New York, New York, a New Jersey corporation, and substituting therefor the certificate number C 49590.

All other provisions of said Vesting Order 7080 and all actions taken by or on behalf of the Alien Property Custodian or the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981)

Executed at Washington, D. C., on January 15, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-858; Filed, Jan. 23, 1947; 8:47 a. m.]

[Vesting Order CE 360]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN INDIANA, OHIO, ILLINOIS, IOWA AND MONTANA COURTS

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said

persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such person's name, and such measures having been taken;

3. That as a result of such action or proceeding each of said persons obtained or was determined to have the property particularly described in Column 4 of said Exhibit A opposite such person's name;

4. That such property is in the possession or custody of, or under the control of, the person described in Column 5 of said Exhibit A opposite such property;

5. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 6 of said Exhibit A opposite such action or proceeding;

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property in the possession or custody of, or under the control of, the persons described in Column 5 of said Exhibit A in amounts equal to the sums stated in Column 6 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in Rules of Procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6)

(40 Stat. 411, 55 Stat. 839, Pub. Law 322, 79th Cong., 60 Stat. 50, Pub. Law 671, 79th Cong., 60 Stat. 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F R. 11981)

Executed at Washington, D. C., on January 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Property	Column 5 Depositary	Column 6 Sum vested
		Item 1			
Julian Piccoli	Italy	Estate of Blanche Good Ortolani, deceased, Superior Court, Lake County, Ind., No. 7237.	$1,500.00	Mrs. Lillian G. Pugh, Administratrix, 49 Wildwood Rd., Hammond, Ind.	$31.00
		Item 2			
Charles (Carlos) Piccoli	do	Same	1,500.00	do	31.00
		Item 3			
Richard (Riccardo) Piccoli	do	Same	1,500.00	do	31.00
		Item 4			
Sergio Ortolani	do	Same	1,500.00	do	31.00
		Item 5			
Francesco Battaglia	do	Estate of John G. Battaglia, deceased, Probate Court, Hamilton County, Ohio; No. 156521.	4,012.17	Mr. Adolph Battaglia, Administrator, 1051 Celestial St., Cincinnati, Ohio.	70.00
		Item 6			
Augusta Bauch Battaglia	do	Same	4,012.17	do	70.00
		Item 7			
Maria Antoniotti Negro	do	Estate of Lorenza Costa, deceased, Probate Court, Rock Island County, Ill.	3,345.81	The County Treasurer of Rock Island County, Rock Island, Ill.	30.00
		Item 8			
Secunda Antonietti Coda	do	Same	2,345.81	do	27.00
		Item 9			
John Peter Johnson	Denmark	Estate of John Johnson, deceased, District Court of Iowa, in and for Black Hawk County, Iowa.	5,060.24	Account No. 7690, The First National Bank of Chicago, 38 South Dearborn St., Chicago, Ill.	90.00
		Item 10			
Concletta Verde	Italy	Estate of Salvatore Cullota, deceased, Probate Court, Cook County, Ill., File No. 44-P-8682; Docket No. 435: page 628.	101.43	Caterina Forti, Administratrix, 6369 Fullerton Ave., Chicago, Ill.	20.00
		Item 11			
Rose Verde	do	Same	101.43	do	20.00
		Item 12			
Sarah Verde	do	Same	101.43	do	20.00
		Item 13			
Jim Verde	do	Same	101.43	do	20.00
		Item 14			
Josephine Verde	do	Same	101.43	do	20.00
		Item 15			
Jose Verde	do	Same	101.43	do	20.00
		Item 16			
Jennie Verde	do	Same	101.43	do	20.00
		Item 17			
Kristiane Kristensen	Denmark	Estate of Niels P. Nielsen, deceased, District Court of the Fourth Judicial District of the State of Montana, in and for the County of Lake; No. 846.	1,260.00	R. Bauman, Royal Danish Legation, Chicago, Ill.	250.00
		Item 18			
Katrine M. Kristensen	do	Same	1,260.00	do	250.00
		Item 19			
Eleanore Greve	Germany	Guardianship Estate of Eleanore Greve, a Minor, Lake Superior Court, Gary, Ind., Guardianship No. 335.	[1]140.00	Mr. James Hansen, Guardian, 675 Broadway, Gary, Ind.	33.00

[1] And securities.

[F. R. Doc. 47-857; Filed, Jan. 28, 1947; 8:47 a. m.]